



भारत का राजपत्र The Gazette of India

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No. 46] NEW DELHI, NOVEMBER 18—NOVEMBER 24, 2018, SATURDAY/KARTIKA 27—AGRAHAYANA 3, 1940

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मानव संसाधन विकास मंत्रालय
(उच्चतर शिक्षा विभाग)
(राजभाषा प्रभाग)

नई दिल्ली, 1 नवम्बर, 2018

का.आ. 1644.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत जवाहर नवोदय विद्यालय, संत रविदास नगर (भदोही), उत्तर प्रदेश-221304 को, ऐसे कार्यालय के रूप में, जिसके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं.11011-2/2018-रा.भा.ए.]

संजय कुमार सिन्हा, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT**(Department of Higher Education)**

(O.L. UNIT)

New Delhi, the 1st November, 2018

S.O. 1644.—In pursuance of sub-rule (4) of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notify the Jawahar Navodaya Vidyalaya, Sant Ravidas Nagar (Bhadohi) Uttar Pradesh - 221304 under the Ministry of Human Resource Development (Department of School Education & Literacy) as an office, whose more than 80% members of the staff have acquired working knowledge of Hindi.

[No. 11011-2/2018-O.L.U]

SANJAY KUMAR SINHA, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1645.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप (उड़ीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री जि.सी. मुखर्जी, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप - हल्दिया - दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप - हल्दिया - बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल-मौरी, मौरीग्राम हावड़ा-711 302 (पश्चिम बंगाल) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : हावड़ा			राज्य: पश्चिम बंगाल		
पुलिस स्टेशन	मौजा का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
बागनान -II	ब्राह्मन दुकुरिया - 35	378	00	00	40
पाँचला	पश्चिमपाँचला - 22	1643/2047	00	01	20

[फा. सं. आर-11025(11)/17/2018-ओआर-I/ई-26864]

नोवस किन्डो, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GASNew Delhi, the 20th November, 2018

S.O. 1645.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri G.C.Mukherjee, W.B.C.S (Exe.)Retd.Competent Authority Paradip – Haldia – Durgapur LPG Pipeline & Augmentation of Paradip – Haldia – Barauni Pipeline Project, P.O,Duillya, Andul - Mouri, Mourigram,Howrah, 711-302 (West Bengal).

SCHEDULE

District : Howrah			State : West Bengal		
Police Station	Name of the Mouza	Khasra No.	Area		
			Hectare	Are	Square meter
1	2	3	4	5	6
Bagnan - II	Brahman Dukuria - 35	378	00	00	40
Panchala	Paschim Panchla - 22	1643/2047	00	01	20

[F. No. R-11025(11)/17/2018-OR-I/E-26864]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1646.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 805 तारीख 15.05.2018 जिसका प्रकाशन भारत के राजपत्र संख्या 20, भाग II, खण्ड 3, उप खण्ड (ii) तारीख 20.05.2018 से 26.05.2018 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल केतेपल्ली, नकिरेकल और नार्केटपल्ली, जिला नलगोंडा की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे “पारादीप-हैदराबाद पाइपलाइन परियोजना” के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30.06.2018 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतयः उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

जिला : नलगोंडा

राज्य : तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर

(1)	(2)	(3)	(4)	(5)	(6)
केतेपल्ली	भीमारम	53	00	18	16
केतेपल्ली	तुंगतुर्ति	147/27	00	14	57
		147/4	00	04	38
		12	00	59	60
		19	00	34	32
		20	00	50	21
केतेपल्ली	चेरुकुपल्ली	682	00	19	16
		683	00	47	18
		472	00	18	14
		473	00	06	55
		474	00	13	69
		488	00	05	54
		489	00	02	69
		487	00	08	99
		486	00	15	91
		485	00	16	02
		484	00	19	82
		419	00	17	46

(1)	(2)	(3)	(4)	(5)	(6)
नकिरेकल	मरूर	299	00	00	04
		300	00	01	11
नार्केटपल्ली	नेम्मनि	136	00	32	81

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S.O. 1646.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 20 Part-II, Section 3, Sub-section (ii) dated 20.05.2018 to 26.05.2018 vide S.O. Number 805 dated 15.05.2018 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandals Kethepally, Nakrekal and Narketpally, District Nalgonda in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip-Hyderabad Pipeline Project".

And whereas the copies of the Gazette was made available to the public till 30.06.2018.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE**District:** Nalgonda**State:** Telangana

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre

(1)	(2)	(3)	(4)	(5)	(6)
Kethepally	Bheemaram	53	00	18	16
		147/27	00	14	57
		147/4	00	04	38
Kethepally	Thungathurthy	12	00	59	60
		19	00	34	32
		20	00	50	21
Kethepally	Cherkupally	682	00	19	16
		683	00	47	18

(1)	(2)	(3)	(4)	(5)	(6)
		472	00	18	14
		473	00	06	55
		474	00	13	69
		488	00	05	54
		489	00	02	69
		487	00	08	99
		486	00	15	91
		485	00	16	02
		484	00	19	82
		419	00	17	46
Nakrekal	Marrur	299	00	00	04
		300	00	01	11
Narketpally	Nemmani	136	00	32	81

[F. No. R-11025(11)/3/2018-OR-I/E-21839]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1647.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप(उड़ीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री ए. के. सरकार, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप - हल्दिया - दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप - हल्दिया - बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल-मौरी, मौरीग्राम हावड़ा-711 302 (पश्चिम बंगाल) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : पूर्व मेदिनीपुर			राज्य: पश्चिम बंगाल		
पुलिस स्टेशन	मौजा का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
तमलुक - I	सादिचक- 53	68	00	05	00
		72	00	01	00
		71	00	03	80
		78	00	00	80
		76	00	02	60
		77	00	03	40
		42/233	00	05	90

		41	00	00	20
		40	00	03	20
		83	00	03	50
		39	00	00	20
		38	00	01	70
		37	00	03	50
		36	00	01	50
		34	00	01	30
		67	00	00	10
तमलुक - I	आमगेछ्या- 95	456	00	00	30
		645	00	00	50
		643	00	02	70
		646	00	00	40
		647	00	00	30
		648	00	00	20
सुताहाटा - II	गोराणखालि- 61	732	00	01	80
		719	00	03	00

[फा. सं. आर-11025(11)/17/2018-ओआर-I/ई-26864]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S. O. 1647.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri A. K. Sarkar, W.B.C.S (Exe.) Retd. Competent Authority Paradip – Haldia – Durgapur LPG Pipeline & Augmentation of Paradip – Haldia – Barauni Pipeline Project, P.O, Duillya, Andul - Mouri, Mourigram, Howrah, 711-302 (West Bengal).

SCHEDULE

District : Purba Medinipur			State : West Bengal		
Police Station	Name of the Mouza	Khasra No.	Area		
			Hectare	Are	Square meter
1	2	3	4	5	6
Tamluk - I	Sadichak – 53	68	00	05	00
		72	00	01	00
		71	00	03	80
		78	00	00	80
		76	00	02	60
		77	00	03	40
		42/233	00	05	90
		41	00	00	20

		40	00	03	20
		83	00	03	50
		39	00	00	20
		38	00	01	70
		37	00	03	50
		36	00	01	50
		34	00	01	30
		67	00	00	10
Tamluk - I	Amgechhya- 95	456	00	00	30
		645	00	00	50
		643	00	02	70
		646	00	00	40
		647	00	00	30
		648	00	00	20
Suthahata-II	Gorankhali- 61	732	00	01	80
		719	00	03	00

[F. No. R-11025(11)/17/2018-OR-I/E-26864]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1648.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप (उड़ीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इससे उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आषय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री ए. के. सरकार, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप — हल्दिया — दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप — हल्दिया — बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल-मौरी, मौरीग्राम हावड़ा-711 302 (पश्चिम बंगाल) को लिखित रूप में आक्षेप भेज सकेगा ।

अनुसूची

पुलिस स्टेशन : चन्डीपुर		जिला : पूर्व मेदिनीपुर	राज्य : पश्चिम बंगाल		
क्रम सं.	मौजा का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
1	भगवानखाली (1) - 38	90	00	01	80
		91	00	05	20
		89	00	00	90
		92	00	02	50
		88	00	01	50
		87	00	01	40
		85	00	00	90
		84	00	01	40
		83	00	03	80
		81	00	02	30
		80	00	01	10
		759	00	00	20

2	बिशालचक -37	27	00	02	90
		28	00	02	00

[फा. सं. आर-11025(11)/17/2018-ओआर-I/ई-26864]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S. O. 1648.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri A. K. Sarkar, W.B.C.S (Exe.) Retd. Competent Authority Paradip – Haldia – Durgapur LPG Pipeline & Augmentation of Paradip – Haldia – Barauni Pipeline Project, P.O, Duillya, Andul - Mouri, Mourigram, Howrah, 711-302 (West Bengal).

SCHEDULE

P S: Chandipur		District : Purba Medinipur		State : West Bengal	
Sl. No.	Name of the Mouza	Khasra No.	Area		
			Hectare	Are	Square meter
1	2	3	4	5	6
1	Bhagabankhali (1) - 38	90	00	01	80
		91	00	05	20
		89	00	00	90
		92	00	02	50
		88	00	01	50
		87	00	01	40
		85	00	00	90
		84	00	01	40
		83	00	03	80
		81	00	02	30
		80	00	01	10
		759	00	00	20
2	Bishalchak - 37	27	00	02	90
		28	00	02	00

[F. No. R-11025(11)/17/2018-OR-I/E-26864]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1649.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप(उड़ीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इससे उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री जि.सी. मुखर्जी, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप - हल्दिया - दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप - हल्दिया - बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल-मौरी, मौरीग्राम हावड़ा-711 302 (पश्चिम बंगाल) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : बर्द्धमान			राज्य: पश्चिम बंगाल		
पुलिस स्टेशन	मौजा का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
जामालपर	दत्तपुर - 23	913	00	01	20

[फा. सं. आर-11025(11)/17/2018-ओआर-I/ई-26864]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S. O. 1649.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri G.C. Mukherjee, W.B.C.S. (Exe.) Retd. Competent Authority Paradip – Haldia –Durgapur LPG Pipeline & Augmentation of Paradip – Haldia –Barauni Pipeline Project, P.O. Duillya, Andul - Mouri, Mourigram, Howrah, 711-302 (West Bengal).

SCHEDULE

District : Burdwan			State : West Bengal		
Police Station	Name of the Mouza	Khasra No.	Area		
			Hectare	Are	Square meter
1	2	3	4	5	6
Jamalur	Dattapur - 23	913	00	01	20

[F. No. R-11025(11)/17/2018-OR-I/E-26864]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1650.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 807 तारीख 15.05.2018 जिसका प्रकाशन भारत के राजपत्र संख्या 20, भाग II, खण्ड 3, उप खण्ड (II) तारीख 20.05.2018 से 26.05.2018 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल चिलुकूर, मुनगाला और पेन्पहाड़, जिला सुर्यापिट की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे “पारादीप-हैदराबाद पाइपलाइन परियोजना” के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30.06.2018 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है:

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया: उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

जिला : सुर्यापिट

राज्य : तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
चिलुकूर	चिलुकूर	201	00	00	53
		127	00	01	55
		377	00	07	97
मुनगाला	गणपवरम	169/5	00	00	17
पेन्पहाड़	पेन्पहाड़	94/26	00	04	09

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S.O. 1650.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 20 Part-II, Section 3, Sub-section (ii) dated 20.05.2018 to 26.05.2018 vide S.O. Number 807 dated 15.05.2018 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandals Chilkur, Munagala and Penpahad, District Suryapet in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip-Hyderabad Pipeline Project".

And where as the copies of the Gazette was made available to the public till 30.06.2018.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

District: Suryapet

State: Telangana

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Chilkur	Chilkur	201	00	00	53
		127	00	01	55
		377	00	07	97
Munagala	Ganapavaram	169/5	00	00	17
Penpahad	Penpahad	94/26	00	04	09

[F. No. R-11025(11)/3/2018-OR-I/E-21839]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का.आ. 1651.—भारत सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि उड़ीसा राज्य में पारादीप (उड़ीसा) से हल्दिया (पश्चिमबंगाल), दुर्गापुर (पश्चिमबंगाल) तक एलपीजी गैस परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा पाइपलाइन बिछाई जानी चाहिए;

और भारत सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, भारत सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिस को इस अधिसूचना से युक्त भारत के राजपत्र की असाधारण प्रतियाँ जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के

नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री बिशनु मोहन भांजा, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, इंडियन ऑयल हाउसिंग काम्पलेक्स, बालासोर . 756056, (उड़ीसा) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : बालासोर

राज्य : ओडिशा

क्रमांक	तहसील का नाम	गाँव का नाम	कुल अधिग्रहित क्षेत्रफल			
			सर्वे क्रमांक	हैक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	बासुदेवपुर	राधामोहनपुर	433	0	5	83

[फा. सं. आर-11025(11)/9/2018-ओआर-I/ई-24540]

नोक्स किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S. O. 1651.—Whereas, it appears to the Indian Government that it is necessary in the public interest that for the transportation of LPG from Paradip(Odisha) to Haldia (West Bengal) to Durgapur(West Bengal) pipelines should be laid in State of Odisha by Indian Oil Corporation Limited.

And whereas, it appears to the Indian Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Bishnu Mohan Bhanja, Competent Authority, Indian Oil Corporation Limited, Indian Oil Housing Complex, Balasore – 756056, Odisha.

SCHEDULE

DISTRICT : Balasore

STATE : ODISHA

S.NO.	Name of Tehsil	Name of Village	Survey No.	Area		
				Hectare	Are	Sqm.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Basudevpur	Radhamohanpur	433	00	05	83

[F. No. R-11025(11)/9/2018-OR-I/E-24540]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1652.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ. 705 तारीख 24.04.2018 जिसका प्रकाशन भारत के राजपत्र संख्या 1843, भाग II, खण्ड 3, उप खण्ड (II) तारीख 05.05.2018 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट ओडीशा राज्य के तहसील: कुजंग जिला: जगतसिंगपुर की भूमि में, ओडीशा राज्य में पारादीप से पश्चिमबंगाल राज्य में दुर्गापुर तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल

कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे “पारादीप-हल्दीआ-दुर्गापुर एलपीजी पाइपलाइन परियोजना” के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को उपलब्ध करा दी गई थीं। और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने भारतसरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है:

अतः अब, भारत सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार अर्जित किया जाए:

और भारत सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

जिला : जगतसिंगपुर			राज्य : ओडिशा			
क्रम सं	तहसील का नाम	मौजा का नाम	खसरा नं	क्षेत्रफल		
				हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6	7
1.0	कुजंग	उदयबट - 34	1146	00	02	45
			1149	00	01	65
2.0	कुजंग	पारादीपगड - 31	1381	00	00	40
			1382	00	00	40
			1383	00	00	40
			1387	00	00	81
			1388	00	01	20
			1391	00	08	10
			1409	00	07	30
			1410	00	02	65
			1422	00	02	02
			1423	00	03	85
			1424	00	04	85
			1425	00	04	05
			1426	00	04	25

[फा. सं. आर-11025(11)/9/2018-ओआर-I/ई-24540]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S.O. 1652.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No.1843 Part-II, Section 3, Sub-section (ii) dated 05.05.2018 vide S.O. Number 705 dated 24.04.2018 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Indian Government declared its intention to acquire the right of user in the land situated in Kujang District Jagatsingpur in Odisha State, specified in

the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Haldia in the State of West-Bangal by the Indian Oil Corporation Limited for implementing the "Paradip-Haldia-Durgapur LPG Pipeline Project".

And whereas the copies of the Gazette were made available to the public. And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Indian Government.

And whereas, the Indian Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Indian Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline; And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Indian Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Indian Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

SCHEDULE

District : Jagatsinghpur			State : odisha			
S.No.	Name of Thesil	Name of Mouza	Khasra No.	Area		
				Hectare	Are	Sqm
1	2	3	4	5	6	7
1.0	Kujang	Udayabat- 34	1146	00	02	45
			1149	00	01	65
2.0	Kujang	Paradipgarh- 31	1381	00	00	40
			1382	00	00	40
			1383	00	00	40
			1387	00	00	81
			1388	00	01	20
			1391	00	08	10
			1409	00	07	30
			1410	00	02	65
			1422	00	02	02
			1423	00	03	85
			1424	00	04	85
			1425	00	04	05
			1426	00	04	25

[F. No. R-11025(11)/9/2018-OR-I/E-24540]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का. आ. 1653.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 उप धारा (1) के अधीन जारी की गई, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 804 तारीख 15.05.2018 जिसका प्रकाशन भारत के राजपत्र संख्या 20, भाग II, खण्ड 3, उप खण्ड (II) तारीख 20.05.2018 से 26.05.2018 में किया गया है। इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट तेलंगाना राज्य के मंडल बी. पोचमपल्ली और रामन्नपेट, जिला यादद्री भुवनगिरि की भूमि में, ओडीशा राज्य में पारादीप से तेलंगाना राज्य में हैदराबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा क्रियान्वित किए जा रहे “पारादीप-हैदराबाद पाइपलाइन परियोजना” के संबंध में पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी:

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 30.06.2018 तक उपलब्ध करा दी गई थीं।

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन विद्युत के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है:

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद् द्वारा घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन विद्युत के उपयोग का अधिकार अर्जित किया जाए:

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए सभी बिल्लिंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतयः उत्तरदायी होगी और पाइपलाइन से संबंधित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

जिला : यादद्री भुवनगिरि

राज्य : तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
बी. पोचमपल्ली	जिब्लक पल्लि	167/1	00	10	85
		168	00	25	72
		169	00	29	08
		176	00	20	77
		226	00	54	59
रामन्नपेट	एल्लन्कि	153	00	04	66

[फा. सं. आर-11025(11)/3/2018-ओआर-I/ई-21839]

नोवस किन्डो, अवर सचिव

New Delhi, the 20th November, 2018

S.O. 1653.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas, published in the Gazette of India No. 20 Part-II, Section 3, Sub-section (ii) dated 20.05.2018 to 26.05.2018 vide S.O. Number 804 dated 15.05.2018 issued under Sub-section (1) of Section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act) the Central Government declared its intention to acquire the right of user in the land situated in Mandals B. Pochampally and Ramannapet District Yadadri Bhongir in Telangana State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from Paradip in the State of Odisha to Hyderabad in the State of Telangana by the Indian Oil Corporation Limited for implementing the "Paradip-Hyderabad Pipeline Project".

And where as the copies of the Gazette was made available to the public till 30.06.2018.

And whereas the Competent Authority has under Sub-section (1) of Section 6 of the said Act, has submitted his report of Central Government.

And whereas, the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of the user therein;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the right of user of the said land for laying the pipeline shall, instead of vesting in the Central Government, vests on the date of publication of the declaration, in India Oil Corporation Limited, free from all encumbrances.

India Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to pipeline.

SCHEDULE

District: Yadadri Bhongir

State: Telangana

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
B. Pochampally	Jiblak Palle	167/1	00	10	85
		168	00	25	72
		169	00	29	08
		176	00	20	77
		226	00	54	59
Ramannapet	Yellanki	153	00	04	66

[F. No. R-11025(11)/3/2018-OR-I/E-21839]

NOAS KINDO, Under Secy.

नई दिल्ली, 20 नवम्बर, 2018

का.आ. 1654.—भारत सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि उड़ीसा राज्य में पारादीप (उड़ीसा) से हल्दिया (पश्चिम बंगाल), दुर्गापुर (पश्चिम बंगाल) तक एलपीजी गैस परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा पाइपलाइन बिछाई जानी चाहिए;

और भारत सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, भारत सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिस को इस अधिसूचना से युक्त भारत के राजपत्र की असाधारण प्रतियाँ जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री बिशानु मोहन भांजा, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, इंडियन ऑयल हाउसिंग काम्पलेक्स, बालासोर . 756056, (उड़ीसा) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला : बालासोर

राज्य : ओडिशा

क्रमांक	तहसील का नाम	गाँव का नाम	कुल अधिग्रहित क्षेत्रफल			
			सर्वे क्रमांक	हैक्टेयर	एयर	वर्गमीटर
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	बलियापाल	पालापडा	38/2474	0	1	23

[फा. सं. आर-11025(11)/9/2018-ओआर-I/ई-24540]

नोवस किन्डो, अवसर सचिव

New Delhi, the 20th November, 2018

S. O. 1654.—Whereas, it appears to the Indian Government that it is necessary in the public interest that for the transportation of LPG from Paradip(Odisha) to Haldia (West Bengal) to Durgapur(West Bengal) pipelines should be laid in State of Odisha by Indian Oil Corporation Limited.

And whereas, it appears to the Indian Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Bishnu Mohan Bhanja, Competent Authority, Indian Oil Corporation Limited, Indian Oil Housing Complex, Balasore – 756056, Odisha.

SCHEDULE

DISTRICT : Balasore

STATE : ODISHA

Sl. No.	Name of Tehsil	Name of Village	Survey No.	Area		
				Hectare	Are	Sqm.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Baliapal	Palpada	38/2474	00	01	23

[F. No. R-11025(11)/9/2018-OR-I/E-24540]

NOAS KINDO, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 25 अक्टूबर, 2018

का.आ. 1655.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, आयुक्त, दक्षिण दिल्ली नगरपालिका निगम, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 133/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.10.2018 को प्राप्त हुआ था।

[सं. एल-42011/187/2017-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 25th October, 2018

S.O. 1655.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 133/2018) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Commissioner, South Delhi Municipal Corporation, New Delhi and other their workmen, which was received by the Central Government on 12.10.2018.

[No. L-42011/187/2017-IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 133/2018

The General Secretary,
DUKS Union, B-40, 1st Floor,
MCD Flat Bulward Road, Tis Hazari,
Delhi – 110 054

...Workman

Versus

The Commissioner,
South Delhi Municipal Corporation
Civic Centre, Minto Road,
New Delhi 110 002

The Commissioner,
North Delhi Municipal Corporation
Civic Centre, Minto Road,
New Delhi – 110 002

The Commissioner,
East Delhi Municipal Corporation
Udyog Sadan, Plot No.419,
Patparganj Industrial Area,
Delhi – 110 092

...Managements

AWARD

A reference under clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) was received from the Central Government, Ministry of Labour and Employment vide letter No.L-42011/187/2017-IR(DU) dated 19.02.2018 for adjudication of an industrial dispute with the following terms:

‘Whether the demand of the union of enhanced Cycle Allowance @Rs.500.00 in place of Rs.90 to malis, beldars, peons, daily wagers and contract labours working in various department of SDMC, NDMC and EDMC is just, fair and legal? If yes, what directions are necessary in this respect?’

2. On receipt of the above reference, notice was sent to the workman union as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the workman union. Despite service of the notice, the workman union opted to abstain from the proceedings and no claim statement was filed on their behalf. Thus, it is clear that the workman union is not interested in adjudication of the reference on merits.

4. Since the workman union has neither put in appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. However, it will not debar the workman union from seeking relief afresh as there is no adjudication of the reference on merits. An award is, accordingly, passed.

Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 8, 2018

A. C. DOGRA, Presiding Officer

नई दिल्ली, 25 अक्टूबर, 2018

का.आ. 1656.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, जनरल मैनेजर, भारत संचार निगम लिमिटेड, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 2, दिल्ली के पंचाट (संदर्भ संख्या 123/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.10.2018 को प्राप्त हुआ था।

[सं. एल-40012/01/2012—आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 25th October, 2018

S.O. 1656.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 123/2012) of the Central Government Industrial Tribunal-cum-Labour Court, 2, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the General Manager, Bharat Sanchar Nigam Ltd., New Delhi and other their workman, which was received by the Central Government on 17.10.2018.

[No. L-40012/01/2012— IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.2, DWARKA COURTS COMPLEX : NEW DELHI

ID No. 123/2012

1. Sanjay s/o. Shri Kailash,
R/o. D-12 Patel Nagar Balmiki Colony,
Distt.Ghaziabad U.P.
2. Shri Swaraj s/o. Sri Chand,
R/o.Village –Ator, Post Khas Ator,
Distt.Ghaziabad U.P.
3. Shri Sanjay s/o. Late Shri Sukhbir Singh,
R/o. H.No. 845, Tulsi Niketan, Bhopura,
Distt.Ghaziabad U.P.
4. Shri Ashok s/o. Shri Sugreev,
R/o. Village Matta, Post Khas Matta,
Distt. Ghaziabad U.P.
5. Shri Shyambir s/o. Shri Daya Chand,
R/o.Village –Ator, Post Khas Ator,
Distt.Ghaziabad U.P.

...Workmen/claimants

Versus

1. The General Manager,
Bharat Sanchar Nigam Ltd.
23 Jaina Tower, Raj Nagar, Ghaziabad U.P.
2. The Asstt. General Manager,
Bharat Sanchar Nigam Ltd.
23 Jaina Tower, Raj Nagar, Ghaziabad U.P.

3. The Divisional Engineer, BSNL,
Raj Nagar Telephone Exchange, Ghaziabad U.P.
4. Asstt.Engineer Phones (X-M) BSNL,
Raj Nagar Telephone Exchange, Ghaziabad U.P.
5 Sub Diisinal engineer, BSNL,
Raj Nagar Telephone Exchange, Ghaziabad U.P.

...Management

AWARD

This Award shall dispose of a reference which was made to this Tribunal vide letter No.L-40012/01/2012-IR(DU) dated 20.07.2012 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of BSNL in not regularizing the services of Sanjay s/o. Shri Kailash, Shri Swaraj s/o. Sri Chand, Shri Ashok s/o. Shri Sugreev, Shri Shyambir s/o. Shri Daya Chand and Shri Sanjay s/o. late Shri Sukhbir Singh is justified ? If not, what relief workmen are entitled to ?

2. Both parties were put to notice and the claimant. The workmen/claimants filed a joint statement of claim, with the averments that abovenamed five workmen were engaged as part time casual labourers (sweeper) during the period from 1993 to 1997, that is to say that workman No 1 and 2 were engaged 19/1/93 & 24/6/1994 respectively, whereas workmen No.3 and 4 were engaged in the year 1995 and that workman No.5 was engaged in 1997. Since then they have been continuously working and put in service of more than 10 years. although their working hours were increased to 7 to 8 hours daily due to nature of work but the Management continued to treat them as part time casual labourers and did not convert them into full time casual labourers. Although a circular dated 16/9/1999 was issued by the office of Management No.1 to convert and regularize part time casual workers working more than or less than 4 hours and fulfilling conditions of having worked for more than 240 days in a preceding 12 months but adopting unfair labour practice, the Management did not give benefit of the said circular to the workmen. The workmen made a joint representation to the Telecom Minister, Govt. of India on 14/6/2001 for granting them temporary status and regularization of their services as per directions of Hon’ble Supreme Court but to no avail. The workmen then filed a writ petition bearing No.35804/2003 for regularization of their services and despite order dated 18/10/2005 having been passed by the Hon’ble High Court, thereby directing the Management to decide the application of the workmen within three months. Thereafter a contempt petition was preferred before the Hon’ble High Court and directions were issued to approach the Labour Court. Hence, prayer has been made for passing an award, regarding regularization of services of the workmen from the date of their initial engagements as mentioned above.

3. The claim petition has been resisted by the Management who filed written statement and took preliminary objections that there is no relationship of employer and employees amongst the Management and claimants, inasmuch as the claimants are not regular employees of the Manager, rather their services were hired as casual workers and the Management has paid their service charges. The claimants have already raised similar questions before the Hon’ble High Court at Allahabad and now they are again agitating the same question. Prayer has been made for dismissal of the claim petition.

4. Rejoinder was filed on behalf of the claimants whereby they denied all the allegations of the Management and reiterated the case as set up in the claim petition.

5. On the pleadings of the parties, following issues were framed on 21/4/2014 by my learned Predecessor :-

- 1) Whether the action of management of BSNL in not regularizing the services of Sanjay s/o. Shri Kailash, Shri Swaraj s/o. Sri Chand, Shri Ashok s/o. Shri Sugreev, Shri Shyambir s/o. Shri Daya Chand and Shri Sanjay s/o. late Shri Sukhbir Singh is justified ? If so, its effect ?
- 2) To what relief the workman is entitled to ? If so, its effect ?

6. In order to prove their case, Workman No.1 Sanjay appeared in the witness box as WW1 who tendered his evidence by way of affidavit Ex.WW1/A & relied on documents Ex.WW1/1 to WW1/12. Other Claimants also tendered their evidence by way of affidavits Ex.WW2/A to Ex.WW5/A. Copy of the circular dated 16/9/1999 issued by the Management No.1 has been filed on record as Ex.WW1/5.

7. On the other hand, the Management did not lead any evidence in rebuttal and the case was proceeded ex parte against the Management vide order dated 7/6/2017.

8. The testimony of the claimants vide affidavits Ex.WW1/A to Ex.WW5/A is in line and in conformity with the averments made in the claim petition. Certificates Ex.WW1/1 to Ex.W1/4 were issued by the Asstt. Engineer Phones (XM), Raj Nagar Telephone Exchange, Ghaziabad showing that the claimants/workmen worked as Part Time sweepers for different periods from 1994 to 1997 at Raj Nagar Telephone Exchange Building. WW1/5 is the copy of the order dated 18/10/2005 passed by Hon’ble High Court at Allahabad in Writ Petition No. 35804/2003 whereby claimants/petitioners were directed to approach the Authority concerned for their grievance regarding benefit in terms of circular dated 16/9/1999. Document Ex.WW1/7 & Ex.WW1/8 are the copies of the reminder letters-III & IV dated 26/3/2004 and 17/3/2004 respectively which Asstt.Director (Estt., O/o General Manager, BSNL, Ghaziabad had sent to the Ex. Engg. Rajnagar Telephone Exchange, Ghaziabad seeking status report/information pertaining to the engagement/employment of the claimants/workmen Sanjay etc. for the purposes of their regularization. Failure of conciliation report is Ex.WW1/9 which shows that the Management did not participate in the conciliation proceedings.

Document Ex.WW1/10 shows that the workmen/claimants Sanjay-I and Sanjay-II were cleaning the Power Battery Rooms of Rajnagar Telephone Exchange, Ghaziabad Vide document Ex.WW1/11 which is dated 25/11/2002, Asstt. Director (Estt., O/o General Manager, BSNL, Ghaziabad had sought clarification from the Supdt. Engineer (FRS), Rajnagar Telephone Exchange, Ghaziabad in respect of the workmen/claimants regarding the date of their engagements, purpose of engagement, approval of competent authority, number of working days and mode of payments. Copy of the Failure Conciliation report Ex.WW1/9 again has been filed on record as Ex.WW1/12.

9. The workmen/claimants in their affidavits have deposed that initially they were engaged for working for four hours daily as part time casual labour for which they were paid wages after approval from the competent authority. They have specifically deposed that they have been working as part time casual labour for the past more than 10 years and are performing duty for 7 to 8 hours per day., but the benefit of circular dated 16/9/1999 has not been extended to them and as such the Management is discriminating them with the other similarly situated persons who have been given benefit under the aforesaid circular dated 16/9/1999. Copy of the said circular has been filed on record as Ex.WW1/5. The Management has not filed any official record or document to show that the workmen/claimants did not work with them for a period of 240 days in a calendar year or that the version of the claimants that they have been performing duties with the Management as part time casual workers./labourers for the last over 10 years is false and incorrect.

10) From the evidence adduced on record by the parties it is manifest that the claimants were admittedly engaged by the Management as sweeper though on part time basis.. There is no dispute about preposition of law that onus to prove that claimant was in the employment of Management is always on the workmen/claimants and it is for the workman to adduce evidence to prove factum of their employment with the Management. Such evidence may be in form of receipt of salary or wages for 240 days or record of their appointment or engagement for that year to show that they have worked with the employer for 240 days or more in a Calendar year. In this regard, reference may be made to Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh, (2005) 8 Supreme Court Cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda (2012) 1 SCC 47.

11) There is hardly any dispute with the preposition of law as propounded in the aforesaid case. However, the factual scenario in the present case is bit different, inasmuch as certificates Ex.WW1/1 to Ex.WW1/4 clearly shows that the workmen./claimants had been working under the Management at its Raj Nagar Telephone Exchange as Part Time Sweepers from 1994 to 1997, though they had not performed duty for 240 days in any calendar year. But the fact remains that they are still serving as such since the day of their engagements. This proves the relationship of employee and employer between the claimant and the Management. Equally settled is the position of law that when relationship of employer-employee stands proved between the parties, then onus will shift upon the employer/management to show that the claimant has not worked for 240 days or more in a calendar year. The Management has not led any evidence to show that the claimants have not worked with them for 240 days or more in a calendar year. In such circumstances, this Tribunal has not option but to accept the unassailed and unrebutted testimony of the claimants that they have been regularly working as part time casual worker/labourers under the Management. In this regard, reference can be made to the decision in the case of Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Court 2532, wherein the Hon'ble Apex Court while interpreting the provisions of Section 2(S) of the Act which deals with the definition of "workman" has observed as under :-

"The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman."

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of "workman" as provided in Section 2(S) of the Act.

12) As discussed above, in the case in hand engagement of the claimant as part time for doing intermittent nature of work and/or for cleaning the BSNL premises is duly admitted by the Management in its written statement. The Management has not filed any document in the form of abstract of attendance of claimant or other such workers so as to show that claimants have not completed 240 days in a calendar year. In such circumstances, statement of the witnesses of the claimant who appeared as WW1 to WW5 can not be brushed aside, more so for the reason that work of cleaning of the bank premises is of regular and perennial in nature and further that the claimants are in the employment of the Management since after their engagements during the period from 1993 to 1997 and still they are working as such under the Management...

13) Net result of the aforesaid discussion is that there is relationship of Employer-employee between the Management and that the claimant had worked with the Management for 240 days in a calendar year.

14) Now the vital question for consideration is as to whether the demand of workmen/claimants - part time sweepers, that they be given benefit of circular dated 16/9/1999 (Ex.WW1/5) issued by the Management is just and fair. The Management has not confirmed the claimant as Full Time casual labour as per circular/scheme dated 16/9/1999, The claimants had in fact filed Writ Petition before Hon'ble High Court and after decision of the Hon'ble High Court,

the claimants approached the Conciliation Officer wherein also the Management failed to attend the conciliation proceedings which fact is evident from document Ex.WW1/9. Perusal of the record shows that in relation to the conversion of Part Time Casual Labourers working for less than 4 hours per day into full time casual labourer, circular/guidelines dated 16/9/1999 (Ex.WW1/4) were issued by the Govt. of India to all concerned of Telecom Circles/Districts and other Administrative Units with the direction that as one time relaxation, Part Time casual labourers with less than 4 hours of duty per day, who have worked for 240 days in the preceding 12 months may be converted into full time casual labourers and that they should be engaged as casual labourers subject to suitability. Even if it is presumed that the claimants have been working as part time sweeper and their working hours were not fixed, then also action of the Management in not considering the claimants for conversion into casual labourers under the guidelines dated 16/9/1999 (Ex.WW1/5) can not be said to be just and proper, inasmuch the case of the claimant did fall in the category of the **all part time casual labourers who were working with the Management**. Thus, it was incumbent upon the Management to comply with the directions of Govt. of India issued vide aforesaid orders/guidelines and to give benefits of the same to all concerned including the claimants/workmen. Resultantly, it is held that action of the Management in not giving benefits to the claimants as per circular dated 16/9/1999 was unjust and illegal. Consequently, the demand made in this respect by the workmen/claimants is held to be just, fair and legal.

15) Having regard to the aforesaid facts and circumstances of the case, Management is directed to regularize the services of the workman/claimant in view of circular dated 16.09.1999 and all consequential monetary benefits viz. payment of difference in wages be made to them. Award is passed accordingly.

Date : 15.10.18

AVTAR CHAND DOGRA , Presiding Officer

नई दिल्ली, 25 अक्टूबर, 2018

का.आ. 1657.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, आयुक्त, दक्षिण दिल्ली नगरपालिका निगम, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 67/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.10.2018 को प्राप्त हुआ था।

[सं. एल-42011/224/2015-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 25th October, 2018

S.O. 1657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 67/2016) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director, Department of Personnel and Training, New Delhi and other their workmen, which was received by the Central Government on 12.10.2018.

[No. L-42011/224/2015- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, DWARKA COURTS COMPLEX : NEW DELHI

ID No. 67/2016

Prayag Dutt Sharma,
S/o. late Shri Ram Swaroop Sharma,
Asstt. Manager cum Store Keeper,
Rep. All India Central Govt. Canteen Emp. Association,
F-48, Lado Sarai,
New Delhi.

... Workman/Claimant

Versus

1) The Director (Canteens),
DOPT, Lok Nayak Bhawan, Khan Market,
New Delhi.

2) The Secretary (Non Statutory Canteen),
Deptt. Of Industrial Policy & Promotion,
Ministry of Commerce and Industries,
Udyog Bhawan, New Delhi 110011

...Management

AWARD

In the present case, matter was referred to this Tribunal vide letter No. L-42011/224/2015-IR(DU) dated 07.01.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the demand of the Union to grant the workman Shri Prayag Dutt Sharma s/o.late Shri Ram Swaroop Sharma the grade pay of Rs.4200/- as upgradation under the MACP Scheme is legal and/or justified and if so, what relief is the workman entitled to and what directions are necessary in this respect ?

2. Both parties were put to notice and the workman/claimant filed statement of claim through General Secretary of the Union. As per the averments made in the claim petition, the claimant has been working as Asstt. Manager cum Storekeeper with Management No.2 w.e.f. 26/9/1983 and no promotion was granted, though the claimant was entitled for 2nd ACP in the pay scale of Rs.5000-8000/- w.e.f. 25-9-2008 on completion of 24 years of service but the Management denied the same and kept him in the pay scale of Rs.3200-4900/- which was revised as per orders of Hon'ble Central Administrative Tribunal in the pay scale of Rs.4000-6000/- w.e.f. 22.12.2004 but the 2nd ACP after completion of 24 years of service was not granted to the claimant. It is alleged that the post of Manager cum Accountant which is promotional post from the post of Asstt. Manager having eight years regular service, carries grade pay of Rs.4200/-. It is also alleged that one departmental canteen clerk was granted pay scale of Rs.9300-34800/- with grade pay of Rs.4200/- as per notification dated 19/8/2009 and promoted to the post of Dy. General Manager with grade pay of Rs.4200/-. It is further alleged that equality if the first principle of justice which the Management has violated. Hence, prayer has been made that claimant be granted pay scale of Rs.9300-34800 w.e.f. date of notification dated 19/8/2009.

3. The claim petition has been resisted by the Managements by filing joint written statement and took preliminary objections that the claimant is trying to mislead the Court inasmuch he has framed an issue distinct from the reference and wanted that the claimant is entitled for the pay scale of Rs.9300-34800/ as per Govt. of India's notification dated 19/8/2009; that the claim is not maintainable & liable to be dismissed as this Tribunal has no jurisdiction to adjudicate upon the present matter of controversy in view of the decision of Hon'ble Supreme Court in the case of Bombay Telephone Exchange Canteen Employees Association Prabhadevi Vs. UOI. On merits it is stated that the claimant was appointed as storekeeper on 10/6/1987 in the pay-scale of Rs.950-1500/- and was taken on the rolls of Department of Industrial Development w.e.f. 1/10/1991 pursuant to the DOPT's O.M. dated 29-1-1992 issued in compliance of directions of Hon'ble Supreme Court relating to the employees of non statutory departmental canteens located in Central Govt. offices. The claimant was granted revised pay-scale of Rs.3200-4900/- w.e.f. 1-1-1996 after implementation of Vth CPC. The workman/claimant was granted 1st ACP in the pay scale of Rs.4000-6000 on completion of 12 years of regular service and consequent upon implementation of VIth CPC, he was granted grade pay of Rs. 2400/- in the pay-scale of Rs. 5200-20200/- w.e.f. 1/1/2006. Thereafter in view of MACP Scheme of the Govt. of India, the claimant was granted 2nd MACP w.e.f. 1/9/2008 on completion of 20 years of regular service, in the grade pay of Rs. 2800/- which is next higher grade pay of Rs. 2400/-. The claimant superannuated on 31/3/2015 and at the time of retirement he was drawing pay of Rs.15240/- (including grade pay of Rs.2800/-). Since the claimant had already been granted two financial upgradations, he is not entitled to any relief. Prayer has been made for dismissal of the claim petition.

4. The claimants/workmen filed rejoinder, denying all the allegations made by the Management and reiterated their own case as set up in the claim petition.

5. On the pleadings of the parties, this Tribunal vide order dated 22/12/2016 framed following issues :-

- i) Whether the reference is not legally maintainable in view of the various preliminary objections ?
- ii) In terms of reference.

6. In support of his case, the claimant Prayag Dutt Sharma examined himself as W.W.1 who tendered his affidavit Ex.WW1/A and relied on document Ex.WW1/1.

7. On the other hand, the Management in order to rebut the case of the claimant examined Shri Anoop Kumar, Under Secretary in the Ministry of Commerce & Industries as MW1 who tendered his evidence by way of affidavit Ex.MW1/A and relied on documents Ex.MW1/1 to Ex.MW1/8.

8. I have carefully gone through the evidence adduced on record by both the parties.

Issue No. 1 and 2 :

9. Both these issues are being taken up together for the purpose of discussion and they can be conveniently disposed of.

10. So far the jurisdiction of this Tribunal to adjudicate the present reference is concerned, learned A/R for the management during the course of arguments did not press this issue since the dispute has been referred to it by the Appropriate Government under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the ID Act and the workmen/claimant working as Asstt. Manager cum Store Keeper in the departmental canteen of the Management can be termed as the workmen as provided under Section 2(S) of the Act.

11. At the outset I may mention that Office Memorandum bearing No. 35034/I/07-Estt.(D) dated 9/8/1999 issued by the Ministry of Personnel, Public Grievance and Pensions, Govt. of India which provides for grant of Assured Career Progression to the Central Govt. employees (civilian) so as to meet out the problem of genuine stagnation and hardship being faced by the employees due to lack of adequate promotional avenues, is being adopted by the Management herein

as a matter of policy. Certain conditions for grant of benefits under the ACP Scheme dated 9/8/1999 have been stipulated in Annexure-I of the said O.M. which inter-alia provides that First financial upgradations under the ACP scheme in the entire Govt. service career of a employee shall be allowed after 10 years of regular service and the second upgradation after 20 years of regular service from the date of first financial upgradation, subject to fulfillment of prescribed conditions. Condition No.6 of the same recites that fulfillment of normal promotion norms (bench-mark, departmental examination, seniority-cum-fitness in the case of Group "D" employees etc.) for grant of financial upgradations, performance of such duties as are entrusted to the employees together with retention of old designations, financial upgradations as personal to the incumbent for the stated purpose and restriction of ACP scheme for financial and certain other benefits (House Building Advance, allotment of govt. accommodation, advances etc.) only without conferring any privileges related to higher status (e.g. invitation to ceremonial functions, deputation to higher posts, etc.) shall be excused for grant of benefits under the ACP Scheme. Standard/common pay scales relating to the posts of S-1 to S-24 have been mentioned in Annexure-II of the said O.M.

12) It would not be out of place to mention here that under the ACP Scheme dated 9/8/1999, two financial upgradation benefits after completion of 12 years of service and 24 years of service respectively were granted, whereas Modified Assured Career Progression Scheme (MACP) was introduced w.e.f. 1/9/2008 with the provision of grant of three promotional/financial upgradation benefits after completion of regular service of 10, 20 and 30 years of service respectively.

13) The testimony of the claimant WW1 is in line with the averments made in the claim petition. It seems that the claimant is harping on the document Ex.WW1/1 viz. information in the form of note of DPC and order dated 23/3/2010 as sought by him under RTI Act from the Department of Personnel & Training, I may mention that as per the said notice and order, one K.G.Thomas Kutty, Asstt. Manager cum-Store Keeper was promoted to the post of Deputy General Manager in the pay scale of Rs.9300-34800 (PB 2) with grade pay of Rs.4200/- because he was holding the post of Asst. Manager cum-Store Keeper since 4/11/2009 and was found eligible and fit for promotion to the post of Deputy General Manager, keeping in view his grading in the CR dossier.

14) I may mention that the workman/claimant can not claim parity with the official who has been considered fit and found suitable for promotion by the Departmental Committee. The workman /claimant has not been able to prove that he has been deprived of the benefits of ACP/MACP Scheme of the Govt. of India. The claimant in his cross examination has admitted that he was given grade pay of Rs.2400/- w.e.f. 1/1/2006 under Vith CPC. He also admitted that from 1/2/2008 (sic.1/9/2008) he was given second d MACP and was granted grade pay of Rs.2800/-. He also admitted that he retired from service on 31/3/2015. He also admitted that Shri H.S.Rawat was holding the post of DGM till the date of his (claimant's) retirement. He also admitted that he was not promoted as DGM due to the reason that the post of DGM was not vacant till the date of his retirement. He also admitted that he was granted all the financial benefits as per the pay commission. Thus, it stands proved that two financial upgradations were granted to the claimant prior to his retirement.

15) MW1 Anoop Kumar Under Secretary in his deposition has given all necessary details viz. date of appointment of claimant as Store Keeper on 10/6/1987; taking him on the roll of Department of Industrial Development w.e.f. 1/10/1991; granting revised pay-scale of Rs.3200-4900/- w.e.f. 1/1/1996 after implementation of 6th CPC; grant of 2nd MACP w.e.f. 1/9/2008 with grade pay of Rs.2800/- on completion of 20 years of service and superannuation of the claimant on 31/3/2015. It is pertinent to mention here that testimony of MW1 has gone unassailed and unchallenged inasmuch as the claimant had stopped participating in the proceedings before this Tribunal w.e.f. 13/10/2017 onwards, after affidavit of MW 1 Anoop Kumar was supplied to him.

16) From the pleadings and evidence on record by the parties, it is crystal clear that the claimant was appointed to the post of Store Keeper in the pay scale of Rs.950-1500 on 15/1/1987. He retired from service on 31st March, 2015 and thus had rendered service of about 28 years. During his service he had been granted two financial upgradations under the ACP/MACP Scheme. Under MACP Scheme every govt. employee is entitled to get three financial upgradations, i.e. after completion of 10, 20 and 30 years of service, subject to fulfilling other conditions. It is reiterated that the claimant had got only two financial upgradations because he had not put in 30 years of service and had superannuated on 31/3/2015 after rendering service of about 28 years. Just because similarly placed official Mr.K.G. Kutty who fulfilled the eligibility criteria for regular promotion to the post of Deputy General Manager in the pay-scale of Rs. 5000-8000 with grade pay of Rs.4200/- and was found fit & suitable for promotion as such by the Departmental Promotion Committee, it will be improper for this Tribunal to conclude that the demand the Union to grant the workman/claimant the grade pay of Rs.4200/- as upgradation under the MACP Scheme is legal & justified inasmuch as he admittedly got all the financial benefits including two financial upgradations under the ACP/MACP Scheme on the strength of his service.

17) In the aforesaid facts and circumstances of the case, I find no merit in the claim of the workman. Same is hereby dismissed, however, with no orders as to costs. Award is passed accordingly.

Dated : 15.10.2018

AVTAR CHAND DOGRA , Presiding Officer

नई दिल्ली, 25 अक्टूबर, 2018

का.आ. 1658.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, नई दिल्ली नगर परिषद, सचिव नई दिल्ली और अन्य का प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 16/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.10.2018 को प्राप्त हुआ था।

[सं. एल-42011/218/2011-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 25th October, 2018

S.O. 1658.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 16/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Management of New Delhi Municipal Council, Secretary New Delhi and other their workmen, which was received by the Central Government on 17.10.2018.

[No. L-42011/218/2011- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1, DWARKA COURTS COMPLEX : NEW DELHI

ID No. 16/2014

Shri Naresh Pal,
S/o. Shri Dhan Pal,
Khalasi,
Posted in EE (D/N) Electric Div. No.V,
Connaught Place, New Delhi through
General Secretary, Municipal Employees' Union,
Agarwal Bhawan, GT Road,
Tis Hazari, Delhi 110054.

...Workman

Versus

The Management of
New Delhi Municipal Council,
Through its Secretary,
Palika Bhawan,
Palika Kendra, New Delhi.

... Management

AWARD

In the present case, matter was referred to this Tribunal vide letter No. L-42011/218/2011-IR(DU) dated 15.01.2014 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of New Delhi Municipal Council (NDMC) in terminating the services of Naresh Pal Khalasi w.e.f. 19.3.2008 is legal and justified ? If not, what relief are they entitled to ?

2. Both parties were put to notice and the workman/claimant Naresh Pal filed his statement of claim, with the averments that workman joined into the employment of Management w.e.f. 1/4/2005 as Khalasi on muster roll/daily wage basis. His service record was unblemished and he discharges his services till 30-11-2005 and his services were discontinued for want of fresh sanction for the muster roll. He was again taken into the job as Khalasi w.e.f. 1-10-2007 and was deputed in Electric Division V, Connaught Place, New Delhi where he discharged his duties till 18/3/2008 and he was terminated on 19/3/2008 from services without any reason. As such the action of the Management is totally illegal, as the job which was being performed by the workman was of regular and permanent nature which is still continuing with the management. The management has even engaged fresh hands after terminating the services of the workman. As such, the termination of services of the workman is in violation of provisions of Section 25-F, G and H of the Act. Demand notice dated 2/6/2009 is stated to have been served upon by the Management but to no avail. Conciliation proceedings also resulted into failure due to adamant attitude of the Management. It is alleged that the workman is totally unemployed since the date of his illegal termination i.e. 19/3/2008. Prayer has been made for reinstatement of the workman into service with full back wages and all consequential benefits thereof either monetary or otherwise.

3. The claim petition has been resisted by the Management who filed written statement and took preliminary objections that the claim has not been filed within the prescribed period and that there is no industrial dispute requiring

adjudication as the services of the claimant were casual in nature and was engaged on daily wages for performing specific job and that the claimant had never worked continuously for a period of 240 days in any calendar year. On merits, while admitting that the claimant was engaged as casual labour./daily wage w.e.f. 1/4/2005 in the electric department for specific job, it is stated that in fact he worked for 218 days till 31-11-2005 (including rest for 28 days) and thereafter his engagement automatically came to an end. Again the claimant was engaged on daily wages./casual labour w.e.f. 1/10/2007 and he worked till 15/3/2008 i.e. for 164 days (including rest for 21 days). It has been stated that the claimant was well aware at the time of his engagement as daily wage that he shall have no claim against any permanent job with the Management and thus no action of the Management can be seen in violation of Section 25-F, G and H of the Act. Prayer has been made for dismissal of the claim petition.

4. On the pleadings of the parties, following issues were framed on 2/6/2014 :-

- 1) Whether non-engagement of the claimant with effect from 19/3/2009 amounts to retrenchment ?
- 2) Whether the claimant has rendered continuous service of 240 days in preceding 12 months from the date of his non engagement ?
- 3) As in terms of reference ?

5. The Claimant in support of his case examined himself as W.W.1 and tendered his affidavit Ex.WW1/A alongwith documents Ex.WW1/1 to WW1/7.

6. On the other hand, the Management in order to rebut the case of the claimant examined Shri Ram Milan, Asstt.Engineer (Electrical) as MW1 and he tendered his evidence by way of affidavit Ex.MW1/A alongwith documents Ex.MW1/1 and Ex.MW1/2.

Issue No.1 to 3 :-

7. All these issues being co-related are being taken up together for the purpose of discussion and they can be conveniently disposed of.

8. Ld. AR appearing on behalf of the Management strongly contended that there is no relationship of employer and employee between the Management & claimant, nor the claimant has completed 240 days of service in a calendar year, preceding to his alleged termination. As such, provisions of Section 25-F of the Act are not applicable to the case in hand. It was also contended that onus is also upon the claimant to prove that he was in the employment of the Management and has completed more than 240 days in a calendar year.

9. Per contra, learned counsel appearing on behalf of the Claimant submitted that the claimant was in service of the Management w.e.f. 1/4/2005 till 30/11/2005 and again from 1/10/2007 till 18/3/2008 and his services were illegally terminated by the Management despite the fact that the job which the claimant was performing was of regular and permanent nature.

10. I may mention that the bald statement of the claimant that he worked as Khalasi with the Management for the period from 1/4/2005 till 30/11/2005 and again from 1/10/2007 till 18/3/2008 finds corroboration from the document Ex.WW1/6 –copy of letter of Engineer N.S.Sagar of Electricity Distribution North Division, NDMC, as also from the documents/attendance certificates Ex.MW1/1 and Ex.MW1/2 given by Ex. Engineer (Electrical). Perusal of the same shows that in the year 2005 the workman in all had worked for a total period of 218 days inclusive of 28 days rest, whereas in the year 2007 he worked for a total period of 164 days, inclusive of 21 days' rest. Thus, it is very much evident that the claimant had not at all rendered continuous service of 240 days in any calendar year or in preceding 12 months from the date of his non engagement/ alleged illegal termination/retrenchment on 19/3/2008. As such, provisions of Section 25-F of the Act are at all not attracted in this case.

11. It is undisputed fact that the workman was working as Khalasi with the Management. MW1 Shri Ram Milan has admitted in his cross examination that the post/work of Khalasi is a regular and permanent nature. The workman/claimant was admittedly not engaged into job of Khalasi on daily wage basis even, w.e.f. 19/3/2008 onwards. The Management has not adduced any evidence on record to show that his services were discontinued either as a punishment inflicted upon him or due to non renewal of the contract of employment on its expiry or that the workman himself had abandoned the job owing to his personal reason or ill health etc. As such, this Tribunal has no hesitation to hold that non-engagement of the claimant with effect from 19/3/2009 amounts to retrenchment.

12. Although the workman was working on daily wage basis and had not completed 240 days in any calendar year prior to his retrenchment on 19/3/2009, yet it was imperative upon the Management to comply with the provisions of Section 25-G of the Act i.e. to say to apply the principle of "last in, first out/go" (LIFO method) while retrenching/terminating the services of the workmen concerned. For the purpose of applying the aforesaid principle as required under Section 25-G of the Act, the Management was required to maintain a list of all such workers whether employed on a daily wage basis or otherwise for short periods of time, so as to ascertain as to who (workman) was/is required to be retrenched first and so on if circumstances so warrant. MW1 showed his ignorance if the Management engaged fresh hands on the post of Khalasi after terminating services of the claimant. However, he admitted that the Management maintains seniority list of its muster roll employees including Khalasi. He stated that he had no brought the said list and even can not produce the same before this Tribunal. He denied the suggestion that the Management was intentionally not producing the said list as it will prove that the Management had engaged many fresh hands after termination of the claimant herein.

Since the Management failed to produce seniority list of its muster roll employees including Khalasi/daily wage like the workman, this Tribunal has no option but to draw adverse inference against the Management for failing to comply with the provisions of Section 25-G of the Act, inasmuch as the Management has not advanced any cogent or tangible reason for terminating/ retrenching the services of the workman herein. In these circumstances, this Tribunal is

of the considered opinion that since the Management has not complied with the provisions of Section 25-G of the Act, the action of the Management in terminating the services of workman w.e.f. 19/3/2009 can not held to be legal and justified.

13. Now the crucial question for consideration is whether the claimant is entitled to any incidental relief of payment of back wages and/or reinstatement of service. The claimant in the pleading as well as in his testimony has stated that he is unemployed since after his termination. The Management has not adduced any evidence to show that the claimant is gainfully employed somewhere else or that she is in a position to make his both ends meet by doing any work. Even if it is assumed that the claimant is doing some intermittent or adhoc work to make his both ends meet, that would not itself amount to gainful employment. **But at the same time this Tribunal can not ignore the fact that the workman was just working on daily wage/muster roll basis as Khalasi. Latest trend itself discernable from the various pronouncements made by the Hon'ble Apex Court is that when a person has been engaged on daily wage basis or for doing temporary kinds of work, in that situation full back wages are not be awarded. There are number of factors which are required to be considered by the Tribunal while considering the question of reinstatement with back wages.**

14. Hon'ble Apex Court in the matter reported as Jaipur Development Authority Versus Ramasahai, (2006) 11 SCC 684 observed as under :-

"However, even assuming that there had been a violation of Section 25-G and 25-H of the Act, but the same by itself, in our opinion, would not mean that the Labour Court should have passed an award of reinstatement with entire back wages. This Court time and again has held that the jurisdiction under Section 11-A must be exercised judiciously. The workman must be employed by State within the meaning of Article 12 of the Constitution of India, having regard to the doctrine of public employment. It is also required to recruit employees in terms of the provisions of the rules for recruitment framed by it. The respondent had not regularly served the appellant. The job was not of perennial nature. There was nothing to show that he, when his services were terminated, any person who was junior to him in the same category, had been retained. His services were dispensed with as early as in 1987. It would not be proper to direct his reinstatement with back wages. We, therefore, are of the opinion that interest of justice would be subserved if instead and in place of reinstatement of his services, a sum of Rs. 75,000/- is awarded to be respondent by way of compensation as has been done by this Court in a number of its judgements..".

15. It has been held in the case of Hari Nandan Prasad Vs. Food Corporation of India (2014) 7 Supreme Court cases 190 as under :-

"Relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice. An order of retrenchment passed in violation of Section 25-F although may be set aside but an award of reinstatement should not, however, automatically passed. The award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination, particularly daily wages has not been found to be proper by the Supreme Court and instead compensation has been awarded. The Supreme Court has distinguished between a daily wagger who does not hold a post and a permanent employee. The reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal, because of non payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation.

16. Having regard to the recent judicial trends and duration of service rendered by the claimant, an amount of Rs. 2 lakh (Rupees Two Lakhs) appears to be just and reasonable, and the same is payable to the claimant herein by the Management. In case this compensation amount is not paid within two months from the date of publication of this Award, then the claimant will be entitled to recover the same alongwith interest @ 6% per annum from the date of award till realization. Award is passed accordingly.

Dated : 15.10.2018

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 25 अक्टूबर, 2018

का.आ. 1659.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महानिदेशक (कार्य) केन्द्रीय लोक निर्माण विभाग, नई दिल्ली एवं उनके कर्मचारी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 98/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.10.2018 को प्राप्त हुआ था।

[सं. एल-42011/105/2014-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 25th October, 2018

S.O. 1659.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 98/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director General (Work), Central Public Works Department, New Delhi and other their workmen, which was received by the Central Government on 17.10.2018.

[No. L-42011/105/2014– IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CHANDIGARH****ID No. 98/2014**

Shri Karam Sangh,
S/o. Shri Samay Singh,
as represented by CPWD Mazdoor Union,
C/o. Room No.95, Barrack No.1/10,
Jam Nagar House,
New Delhi 110011.

... Workman/Claimant

Versus

The Director General (Works),
CPWD,
Nirman Bhawan,
New Delhi.

...Management/ Respondent

AWARD

In the present case, matter was referred to this Tribunal, vide letter No.L-42011/105/2014-IR(DU) dated 10.12.2014 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication of an industrial dispute, terms of which are as under:-

‘Whether Shri Karam Singh s/o. Shri Samay Singh is entitled to be regularized as MLD ? If so, from which date and what directions are necessary in this respect ?

2. Both parties were put to notice and workman Karam Singh filed his statement of claim through. As per the averments made in the claim petition, the workman was initially appointed as Motor Lorry Driver (MLD) on daily wage basis called work order w.e.f. 7/7/1992 and his services were terminated w.e.f. 16-10-1993, He approached CGIT vide ID No.137 of 1997 seeking reinstatement with full back wages which dispute was decided vide Award dated 22/2/2006, whereby action of the Management in terminating the services of the workman w.e.f. 16/10/1993 was held to be illegal and unjustified and he was ordered to be reinstated with 40 per back wages with all consequential benefits from the date of his termination. Against the said Award, the Management filed a CWP No.13733/2006 before Hon’ble High Court which was dismissed & matter was remanded to the CGIT to adjudicate the issue whether the workman completed 240 days or not. In compliance of the said directions, CGIT-cum Labour Court –II vide order dated 20/10/2010 held that the workman Karam Singh had rendered 240 days’ continuous service prior to his termination by the Management on 16/10/1993. It is stated that all the Courts have held that the work order employee in this case are daily rated workers. Daily rated workers in CPWD are getting their wages in the minimum of pay scale plus all allowances but the workman had been denied the said payment. Then, the workman approached the Regional Labour Commissioner who issued recovery certificate for realization of the amount of equal pay for equal work under Section 33-C(1) of the Act. It has been alleged that though the Management vide memo dated 11/3/2011 issued a policy for regularization of Muster Roll/Hand Receipt/Casual workers of CPWD as one time measure but the workman herein has not been granted such status and in fact the Management is treating the concerned workman as a work order employee instead of daily rated worker. As such the action of the Management in not regularizing the services of the workman amounts to adopting unfair labour practice which is liable to be set aside. Prayer has been made that the workman may be regularized with all consequential benefits.

3. The claim of the Workman has been resisted by the Management who filed its written statement wherein the facts as narrated by the workman regarding his engagement, termination w.e.f. 16/10/1993, industrial dispute decided by the CGIT vide award dated 22/2/2006, filing of Writ Petition No.13733/2006 by the Management, order dated 20/2/2007 passed by the Hon’ble High Court remanding the matter back to the CGIT; order dated 20/10/2010 passed by Presiding Officer of CGIT-II, Delhi have been duly reiterated and admitted. Even issuance of policy of regularization vide OM dated 11/3/2011, effective from 11/12/2006, by the Management is also admitted. However, certain preliminary objections have been taken to the effect that the workman in fact is an work order employee and a work order is not meant for engaging workers but only a particular work is awarded to the contractor on work order and as such, the worker engaged by the contractor for completion of work awarded on work order can not be termed as the worker of the

department. As such, there is no question of continuation or discontinuation of their services by the department. It has been alleged that the services of Shri Karam Singh can not be regularized w.e.f. 11/12/2006 or from the date when his junior got regular status, whichever is earlier, because the workman himself had signed the work order accepting the terms and conditions relating to the work order issued for a specified period and it was likely to be terminated. Thus, prayer has been made for dismissal of the claim petition.

4. Rejoinder was filed on behalf of the workman/claimant, whereby the case as set up in the claim petition has been reiterated and allegations made in the written statement have been denied.

5. Vide order dated 15/3/2016 it was observed that no specific issue except those referred by the Government for adjudication arises from the pleadings of the parties and as such parties were called upon to adduce their evidence.

6. The Claimant in support of his case examined himself as WW1 who tendered his affidavits Ex.WW1/1 and relied on the documents Ex.WW1/1 to Ex.WW1/4. He also examined one Shri B.K. Prasad, General Secretary of CPWD Mazdoor Union as WW2 who filed on record documents viz. Ex.WW2/1- & Ex.WW2/2 relating to sponsoring the cause of the workman by the Union and failure of conciliation proceeding. In rebuttal, the Management did not adduce any evidence despite several opportunities granted to it and ultimately this Tribunal vide order dated 7/12/2017 was constrained to close the evidence of the Management

7. I have heard Shri B.K. Prasad, A/R for the workman as none appeared on behalf of the Management to advance arguments. I have also gone through the records carefully and my findings are as follows.

8. The question arises for consideration is whether the claimant is entitled to be regularized as Motor Lorry Driver under the scheme/policy of regularization of muster roll/hand receipt/casual workers of CPWD as one time measure for regularization, issued by the Management vide OM dated 11/3/2011 but effective from 11/12/2006. The plea of the Management is that the workman having been engaged simply on work order basis, can not be equated with daily wage workers employed by the Management and as such he is not entitled to be regularized in terms of the aforesaid policy.

9. From the pleadings of the parties and evidence adduced on record it is evident that the workman was engaged as Motor Lorry Driver (MLD) on work order w.e.f. 07.07.1992 and his services were terminated w.e.f. 16/10/1993. Vide award dated 22-2-2006 passed by Shri S.S. Bal learned Presiding Officer, CGIT, the workman was ordered to be reinstated with 40% back wages & consequential relief. The said Award was challenged by the Management before Hon'ble High Court by filing civil writ petition which was dismissed, though matter was remanded back to the Tribunal vide order dated 20/2/2007 for deciding the issue as to whether the workman had worked for 240 days prior to his alleged termination. Shri Satnam Singh, Presiding Officer, CGIT-cum-Labour Court-II vide its order dated 28/10/2010 had that the workman Karam Singh had rendered 240 days of continuous service prior to his termination by the Management on 16/10/1993. It is pertinent to mention here that in para 11 of the Award dated 22/2/2006, it has been held as under :-

“There is no evidence on record to show that the claimant entered into any contract with the management to drive the Water Tanker on contract basis. It is proved that the workmen were employed on work order basis without any stipulation of period. **They are daily rated workers.** There existed relationship of employer and employee between the management and workmen....”

The said award has now attained its finality inasmuch the writ petition moved by Management challenging the award was dismissed, though the matter qua claimant herein was remanded back to the Tribunal for rendering the decision whether the claimant had rendered continuous service of 240 days. It is reiterated that vide order dated 28/10/2010, CGIT-II decided the matter in favour of the claimant.

10. There is another aspect of the matter that that on the application filed by the claimant under Section 33(C)(1) of the Act, the Regional Labour Commissioner vide his order dated 3/8/2012 while noting that the work order employees were also granted payment of minimum of time scale plus all allowances as per the judgement of Hon'ble Supreme Court in **Surinder Singh and another Vs. Engineer in Chief, CPWD and other (1986 SCC 76)** had concluded that the Karam Singh being a daily rated workman is entitled to the minimum of time scale of skilled workman alongwith all allowances and hence the claim of the claimant/workman amounting to Rs. 9,35,034/- was found to be just, fair and legal and the same was liable to be paid by the Management.

11. The aforesaid order was assailed by the Management by filing W.P.C No.6552/2012 which was dismissed by the Hon'ble High Court vide order dated 15/7/2013 (Ex.WW1/4) wherein in para 8 it has been observed that :-

“...Since wages have been calculated in terms of the Award and the amount has been quantified in terms of the office memorandum, inasmuch as no calculation error could be pointed out during the course of hearing, challenge is unsustainable. The only grievance of the CPWD is that Shri Karam Singh was working on contract basis, thus, his wages could not be calculated as that of daily rated workers in terms of the aforesaid office memorandum. I do not find any force in this contention of learned counsel, inasmuch as, the Award having attained the finality, whereby Shri Karam Singh, Shri Baldev Singh and Shri Bal Kishan, have been held to be daily rated worker, CPWD can not persist to say that these workmen were contractual employees....”

12. To my mind, once the issue relating to the relationship between the parties has already been decided and attained finality, it is improper and unfair on the part of the Management to re-agitate the same, in view of principles of estoppel and res judicata. Hon'ble Supreme Court in the case of **Hope Plantations Ltd. Vs. Taluk Land Board, Peermade & another (1999) 5 SCC 590** has observed as under :-

“It is settled law that the principles of estoppels and res judicata are based on public policy and justice. Doctrine of res judicata is often treated as a branch of the law of estoppels, though two doctrines differ in some essential particulars. Rule of res judicata prevents the parties to a judicial determination from litigating the same question over again even though the determination may even be demonstrably wrong. When the proceedings have attained finality, parties are bound by the judgement and are stopped from questioning it. They cannot litigate again on the same cause of action, nor can they litigate any issue which was necessary for decision in the earlier litigation. These two aspects are “cause of action estoppels” and “issue stopped”. These two terms are of common law origin. Again once, an issue has been finally determined, parties can not subsequently in the same suit advance arguments or adduce further evidence directed to showing that the issue was wrongly determined. Their only remedy is to approach the higher forum, if available.....”

13. Having regard to the aforesaid facts and circumstances, this Tribunal has no hesitation to hold that the plea of the Management that the workman having been engaged simply on work order basis, can not be equated with daily wage workers employed by the Management. Is not tenable and the workman is entitled to be regularized in terms of its regularization policy/scheme dated regularization vide OM dated 11/3/2011, effective from 11/12/2006.

14. Now the residual question arises for consideration as to from which date the workman herein is entitled to be regularized. It is notable that the Management policy/scheme was issued on 11/3/2011 whereby it was decided to regularize the services of those irregularly appointed workmen, who are duly qualified persons in terms of statutory recruitment rules for the post and who have worked for ten years or more as on 11/12/2006, however, further subject to the fulfillment of eligibility conditions prescribed in the Recruitment rules of the respective post including passing of Trade Test etc., wherever necessary. The workman was engaged on 7/7/1992 and he would have completed 10 years of regular service as on 11/12/2006 but for termination of his services w.e.f. 16-10-1993, Vide award dated 22-2-2006, termination of the workman from his services has been found to be illegal & the workman was ordered to be reinstated **only with 40% back wages & consequential relief.** Neither in the pleadings nor in his testimony, the claimant has stated as to when after his termination, he re-joined the services of the Management pursuant to the orders of the Tribunal. Further, there is nothing on record to suggest that any representation or demand notice was sent by the claimant to the Management prior to filing the claim petition. Since the Management has not raised any objection with regard to the educational or trade qualification of the claimant under the scheme, it may be presumed that the workman/claimant do possess requisite qualifications so as to meet the eligibility criteria. Under these peculiar circumstances, this Tribunal is of the opinion that ends of justice will meet if the Management is directed to regularize the services of the workman/claimant w.e.f. 10/12/2014 – the date when the reference was made to this Tribunal by the appropriate Govt.

Relief :-

In the light of above discussion, it is held that the workman is entitled to be regularized in terms of its regularization policy/scheme w.e.f. 10/12/2014. The award is passed accordingly.

Let a copy of this Award be sent to the appropriate Government for publication as required under Section 17 of the Act.

Date : 16.10.18

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 25 अक्टूबर, 2018

का.आ. 1660.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, उप स्वास्थ्य अधिकारी, उत्तरी दिल्ली नगर निगम, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 126/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.10.2018 को प्राप्त हुआ था।

[सं. एल-42011/147/2017-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 25th October, 2018

S.O. 1660.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case No. 126/2018) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Deputy Health Officer, North Delhi Municipal Corporation, New Delhi and other their workmen, which was received by the Central Government on 12.10.2018.

[No. L-42011/147/2017- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No.126/2018

Shri Dheeraj Kumar S/o Shri Rajesh Kumar,
R/o B-3/284, J.J. Colony, Raghuveer,
New Delhi – 110027

...Workman

Versus

The Deputy Health Officer,
North MCD, Karol Bagh Zone,
Room No.407, Niram Bhawan, DBG Road,
MCD Office, Anand Parbhat,
New Delhi 110 005

...Management

AWARD

In the present case, a reference was received vide letter No.L-42011/147/2017-IR(DU) dated 24/30.01.2018 under clause (d) of sub-section (1) and Section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) for adjudication of an industrial disputes, terms of which are as under:

“Whether the workman Shri Dheeraj Kumar S/o late Shri Rahesh Kumr, is entitled for reinstatement with the management of North MCD with all consequential benefit? If not, what other relief the workman is entitled to”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Shri Dheeraj Kumar, the workman, opted not to file his claim statement with the Tribunal.

3. Further, on receipt of the above reference, notice was also sent to the workman as well as the management. Neither the postal article, referred above, was received back undelivered nor was it observed by the Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the workman. Despite service of the notice, the workman opted to abstain from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award. However, it will not debar the claimant from seeking relief afresh as there is no adjudication of the reference on merits. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 1, 2018

A. C. DOGRA, Presiding Officer

नई दिल्ली, 30 अक्टूबर, 2018

का.आ. 1661.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, एम/एस जामिया मिलिया इस्लामिया विष्वविद्यालय, नई दिल्ली एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 168/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17.10.2018 को प्राप्त हुआ था।

[सं. एल-40011/48/2017-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 30th October, 2018

S.O. 1661.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID No. 168/2017) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the M/S Jamia Milia Islamia University, New Delhi and other their workmen, which was received by the Central Government on 17.10.2018.

[No. L-40011/48/2017- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1, DWARKA COURTS COMPLEX : NEW DELHI****ID No. 168/2017**

Mohd. Shahbuddin,
S-8/17, Jogabai Extn.,
Jamia Nagar, Okhla,
New Delhi 110025

...Workman/Claimant

Versus

1. M/s. Jamia Milia Islamia University,
Maulana Mohammad Ali Johar Marg,
New Delhi 110025.

2. M/s. KMS Enterprises,
80-A, Bharat Nagar,
New Friends Colony,
New Delhi 110025

...Management

AWARD

This award shall decide a reference which was made to this Tribunal by the appropriate Government vide its letter No. L-40011/48/2017-IR(DU) dated 19.06.2017 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether Shri Mohammad Shahbuddin s/o. Mohammad Hadish is entitled to get reinstatement in the establishment of M/s Jamia Milia Islamia ? If so, what directions are necessary in this respect, if not what relief is he entitled to ?

2. Both parties were put to notice and the claimant/workman Mohd. Shahbuddin filed his statement of claim, with the averments that he was working as Farash in the Faculty of Social Sciences of Management No.1 w.e.f. 1/7/2008 but was shown to be the workman of the contractor - Management No.2 which was a purely sham contract and paper arrangement. The workman is illiterate and just practiced to put his signature in Urdu language. While performing his duty in the Faculty of Management No.1, he met with an accident on 5/12/2014 with the result that his leg was fractured and got withdrawal from his provident fund through the help of Assistant Labour Commissioner. After treatment and recovery, he approached the Management No.1 for resumption of duties and the Management No.1 asked him to approach the Management No.2 who refused to allow him to join duties in the University and thereafter he sent a demand notice dated 15/9/2015 but to no avail. According to him, his services have been illegally terminated by the Management and has prayed for reinstatement into servies with full back wages and other benefits.

3. Management No.1 and 2 filed their respective written statements with the preliminary objection that the workman was an outsource employee of Management No.2 M/s KMS Enterprises and he had left his services by resignation and he was paid each and every amount due towards him, When the workman had resigned, his son Aurangjab joined the employment of Management No.2 under a fresh agreement from 6/12/2014. The claim of the claimant is false and in fact he was not appointed by Management No.1. The services of the claimant were not terminated rather he left the job of his own. Prayer has been made for dismissal of the claim petition.

4. On the pleadings of the parties, this Tribunal vide order dated 1/8/2018 framed following issues :-

- (i) Whether the claim is not legally maintainable in view of the various preliminary objections ?
- (ii) In terms of reference ?

5. While the matter was listed for evidence, the Claimant did not adduce any evidence rather made a statement before this Tribunal on 13/9/2018 to the effect that he had received an amount of Rs.31,795/- from M/s. KM.S. Enterprises viz. Management No.2 and he has got no other claim against the Managements. He also stated on oath that his claim petition may be treated as satisfied. In view of the fact that the claimant has not led any evidence in support of his case that his services were illegally terminated by the Management rather he has made a statement to the effect that he settled the dispute with his employer Management No. 2 herein, this Tribunal has no option but to hold that there exists no dispute/claim of the workman/claimant against any of the Managements and further that his claim against the Managements stand satisfied. Award is passed accordingly. The statement dated 13/9/2018 made by the claimant/workman shall form part of the Award. Let a copy of this Award be sent for publication as required under Section 17 of the Act.

Date : 16.10.2018

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2018

का.आ. 1662.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महानिदेशक, स्कोप परिसर, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 09/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.11.2018 को प्राप्त हुआ था।

[सं. एल-42011/138/2017-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 2nd November, 2018

S.O. 1662.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case No. 09/2018) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director General, Scope Complex, New Delhi and their workmen, which was received by the Central Government on 01.11.2018.

[No. L-42011/138/2017- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No. 9/2018

Ms.Vibha Mourya through
Metro Ticket Operators Welfare Association

...Workman

Versus

(i) The Managing Director,
Delhi Metro Rail Corporation
Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi 110 001

(ii) M/s. NCES, SCO No.16,17, I8,
Shiv Narayan Complex,
Sikandarpur Ghosi,
(adjacent to City Court),
Tehsil & Distt. Gurgaon,
Haryana, 122 001

...Managements

AWARD

A reference was received from Central Government under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act), by this Tribunal, vide letter No.L-42011/138/2017-IR(DU) dated 21.12.2017, for adjudication of an industrial dispute, terms of which are as under:

“Whether the action of the management of M/s NCES in charging security money from the workman Ms.Vibha Mourya is illegal and/or unjustified and if so whether workman is entitled to get refund of the same alongwith interest and what other relief is she entitled to in respect of alleged victimization by the management of NCES by way of deliberately depriving her from regular duty of 26 days in a month?

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Ms.Vibha Mourya, the workman, opted not to file her claim statement with the Tribunal.

3. Further, on receipt of the above reference, notice was also sent to the workman as well as the management. Neither the postal article, referred above, was received back undelivered nor was it observed by the Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the workman. Despite service of the notice, the workman opted to abstain from the proceedings. No claim statement was filed on her behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the workman has neither put in her appearance nor has she led any evidence so as to prove her cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim’ award.

However, it will not debar the claimant, Ms.Vibha Mourya, from seeking relief afresh as there is no adjudication of the reference on merits. An award is, accordingly, passed.

Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 30, 2018

A. C. DOGRA, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2018

का.आ. 1663.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महानिदेशक, स्कोप परिसर, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 239/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.11.2018 को प्राप्त हुआ था।

[सं. एल-14012/07/2018—आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 2nd November, 2018

S.O. 1663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case No. 239/2018) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director General, Scope Complex, New Delhi and their workman, which was received by the Central Government on 01.11.2018.

[No. L-14012/07/2018—IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No.511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No.239/2018

Shri Ram Babu,
House No.1864, Block-A,
Gali No. 4, near Housing Board Colony,
Section 48, SGM Nagar,
Faridabad – 121 001

...Workman

Versus

(i) Senior Officer, Incharge (Administration),
IAF, Subrato Park,
New Delhi – 110 001

(ii) Commanding Officer,
56, ASP AF Station
Faridabad – 121 001

...Management

AWARD

A reference was received from Central Government under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act), by this Tribunal, vide letter No.L-14012/07/2018-IR(DU) dated 28.08.2018, for adjudication of an industrial dispute, terms of which are as under:

“Whether the action of commanding officer, 56 ASP AF Station Faridabad/Senior, Officer cum Incharge, IAF, Subrato Park, New Delhi in compulsory retiring the workman Shri Ram Babu from service is illegal and/or unjustified and if so what relief is he entitled to and what directions are necessary in this respect?”

2. Notice was sent to the workman union as well as the management directing them to appear before this Tribunal on 31.10.2018. The workman put in his appears and stated that he does not want to pursue the case as he has already filed an OA before the Central Administrative Tribunal as the issue of compulsory retirement comes under the ambit of service matter. Statement of the workman recorded separately. Letter dated 31.10.2018 filed by the workman is marked Ex.C-1, which shall form integral part of this Award. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 31, 2018

A. C. DOGRA, Presiding Officer

नई दिल्ली, 2 नवम्बर, 2018

का.आ. 1664.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, महानिदेशक, स्कोप परिसर, नई दिल्ली और अन्य एवं उनके कर्मचारी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, सं. 1, दिल्ली के पंचाट (संदर्भ संख्या 166/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.11.2018 को प्राप्त हुआ था।

[सं. एल-42012/22/2018-आईआर (डीयू)]

राजेंद्र जोषी, उप निदेशक

New Delhi, the 2nd November, 2018

S.O. 1664.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. Case No. 166/2018) of the Central Government Industrial Tribunal-cum-Labour Court, 1, Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the Director General, Scope Complex, New Delhi and their workman, which was received by the Central Government on 01.11.2018.

[No. L-42012/22/2018- IR(DU)]

RAJENDRA JOSHI, Dy. Director

ANNEXURE

BEFORE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: ROOM No. 511, DWARKA COURT COMPLEX, SECTOR 10, DWARKA, DELHI – 110 075

ID No.166/2018

Ms.Vibha Mourya D/o Shri Prem Chand Mourya,
R/o L-1, 10/2200, Ground Floor,
Sangam Vihar, South Delhi,
New Delhi – 110 062

...Workman

Versus

- (i) The Managing Director,
Delhi Metro Rail Corporation
Metro Bhawan, Fire Brigade Lane,
Barakhamba Road, New Delhi 110 001
- (ii) Nuvision Commercial & Escort Services,
(NCES), SCO No.16,17, I8,
Shiv Narayan Complex,
Sikandarpur Ghosi,
(adjacent to City Court),
Tehsil & Distt. Gurgaon,
Haryana, 122 001

...Managements

AWARD

A reference was received from Central Government under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act), by this Tribunal, vide letter No.L-42012/22/2018-IR(DU) dated 11.04.2018, for adjudication of an industrial dispute, terms of which are as under:

1. “Whether the demand of the workmen (names mentioned in Annexure A) for wages and other benefits of service conditions viz. Leave Benefits, free transport benefit etc. at par with the regular employees of Delhi Metro Rail Corporation is legal and/or justified and if so what directions are necessary in this respect?”
2. “Whether the workmen (names mentioned in Annexure A) are entitled to be regularized as permanent workmen on the roll of Delhi Metro Rail Corporation and if so from which date and what directions are necessary in this respect?”
2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, the workmen, opted not to file their claim statement with the Tribunal.
3. Further, on receipt of the above reference, notice was also sent to the workmen as well as the management. Neither the postal article, referred above, was received back undelivered nor was it observed by the Tribunal that postal services remained affected during the period, referred above. Therefore, every presumption lies in favour of the fact that

the above notice was served upon the workmen. Despite service of the notice, the workmen opted to abstain from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the workmen are not interested in adjudication of the reference on merits.

4. Since the workmen has neither put in their appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. However, it will not debar the claimants, from seeking relief afresh as there is no adjudication of the reference on merits. An award is, accordingly, passed.

Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 30, 2018

A. C. DOGRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1665.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, पश्चिम रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 18/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-41011/80/2015-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 13th November, 2018

S.O. 1665.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2016) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 13.11.2018.

[No. L-41011/80/2015- IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 22nd October, 2018

Reference (CGITA) No. 18/2016

1. The Sr. Section Engineer (P. Way),
Western Railway, Viramgam,
Ahmedabad (Gujarat)
2. The General Manager,
Western Railway, Churchgate,
Mumbai

...First Parties

V/s

The Joint Divisional Secretary,
Paschim Railway Karmachari Parishad,
28-B, Narayan Park,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat) – 382470

...Second Party

For the First Party : Shri M.M. Makhija

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/80/2015-IR(B-I) dated 08.02.2016 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Jt. Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Sr. Section Engineer (P. Way), W.R., Viramgam, Ahmedabad to sign by concerned workman in muster roll instead of P or A at his will is legal, fair and justified? If so, then what relief the workman is entitled to?”

1. The reference dates back to 08.02.2016 and received on 16.02.2016 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. All the parties issued notice Ex. 2 on 07.05.2018 to appear on 11.06.2018. Acknowledgement slips of notice sent to the parties were also received vide Ex. 3, 4 & 5.
3. In response to the notice, the first party submitted the vakalatpatra Ex. 6 of Shri M.M. Makhija on 17.07.2018 but despite giving three more opportunities on 17.07.2018, 04.09.2018 and today on 22.10.2018, the second party has been absent and has also refrained to submit statement of claim.
4. It is also noteworthy that the second party union has demanded the change of mode of attendance register which is not in any way comes within the provisions of Section 2 (oo) of the Industrial Disputes Act and it relates to the procedure which can only be challenged under Article 226 of the Constitution of India in the High Court because this Tribunal has no jurisdiction to give any direction regarding the modalities and procedures of any service matter.
5. Thus in the light of the aforesaid observations, the reference is not maintainable and it also appears that the second party workman or his union are not willing to prosecute the case as the statement of claim is not filed.
6. Thus the reference is disposed of in the absence of the statement of claim of the second party with the observation as under: “the demand of the Jt. Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Sr. Section Engineer (P. Way), W.R., Viramgam, Ahmedabad to sign by concerned workman in muster roll instead of P or A at his will is illegal, unfair and unjustified.”
7. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, पश्चिम रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 16/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-41011/94/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 13th November, 2018

S.O. 1666.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 13.11.2018.

[No. L-41011/94/2012- IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 24th October, 2018

Reference (CGITA) No- 16/2013

The Divisional Railway Manager (E),
Western Railway, Divisional Office,
Ahmedabad (Gujarat)

... First Party

V/s

The General Secretary,
Western Railway Kamdar Sangh,
78/9-C, National Highway, Gandhidham,
Kutch (Gujarat)

...Second Party

For the First Parties : Shri M.N. Pandit

For the Second Party : Shri O.P. Vashisht (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/94/2012-IR(B-I) dated 28.01.2013 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of the Western Railway, Divisional Railway Manager, Ahmedabad Division, Ahmedabad not providing compassionate appointment to Shri Vijay Durga in place of his mother late Sarda Durga, who expired while in Railway service is legal and justified? If not, what relief Shri Vijay Durga is entitled to?”

1. The reference dates back to 28.01.2013 and received on 12.02.2013 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. The second party submitted the statement of claim Ex. 3 and the first party submitted the written statement Ex. 4.
3. The reference was listed for evidence for the second party workman but the learned counsel for the second party union Shri O.P. Vashisht stated that the workman is not interested in the adjudication of the reference and wants withdrawal from the reference.
4. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, भारतीय स्टेट बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1367/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-12012/66/2001-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 13th November, 2018

S.O. 1667.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1367/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 13.11.2018.

[No. L-12012/66/2001- IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 26th September, 2018**Reference: (CGITA) No. 1367/2004**

The Branch Manager,
State Bank of India,
Vapi Industrial Township Branch,
GIDC Vapi, Taluka Pardi,
Balsar (Gujarat) – 396195

...First Party

V/s

Mr. Laxmanbhai Devjibhai Patel,
Ranverikhurd, Taluka Chikli,
Navsari (Gujarat) – 396570

...Second Party

For the First Party : Shri J.D. Chalishajar

For the Second Party : Shri S.N. Gandhi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/66/2001–IR(B-I) dated 21.08.2001 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of the Branch Manager, State Bank of India, Vapi Industrial Township Branch, GIDC Vapi, District Valsad in terminating the services of Shri Laxmanbhai Devjibhai Patel w.e.f. 23.02.1999 is justified? If not, what relief the concerned workman is entitled?”

1. The reference dates back to 21.08.2001 and received on 05.09.2001 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. The second party workman Laxmanbhai Devjibhai Patel and Authorised Officer for State Bank of India, first party have jointly submitted a settlement Ex. 28 stating that the matter has been amicably settled between the parties and the aforesaid second party workman Laxmanbhai Devjibhai Patel has been paid Rs.200000/- (Rupees Two Lac) by Demand Draft No. 807458 dated 17.09.2018 and the solicitor S.N. Gandhi Associates has been paid Rs.15000/- (Rupees Fifteen Thousand) and both the parties have agreed fully to the settlement. Nothing has remained unsettled between the parties.
3. Thus the reference is finally disposed of in the light of the settlement Ex. 28. The award is passed accordingly. The settlement Ex. 28 shall remain the part of award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1668.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, पश्चिम रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 27/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-41025/01/2018–आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 13th November, 2018

S.O. 1668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 13.11.2018.

[No. L-41025/01/2018–IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 09th October, 2018

Complaint (CGITA) No. : 27/2004
(Old Complaint (ITC) No. : 32/2000)
In
Reference (CGITA) No. : 105/2004
(Old Reference (ITC) No. : 79/1998)

Shri Jitendra K. Ved,
Ex. Railway Workman,
Sinduri Mata Devasthan, S.T. Nagar Road, Godhra,
Panchmahal (Gujarat) – 389001

...Complainant

V/s

1. The General Manager,
Western Railway,
Churchgate, Mumbai
2. The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Vadodara (Gujarat) – 390004
3. The Senior Electrical Foreman (Power),
Western Railway, Railway Station Platform,
At and PO Godhra,
Panchmahal (Gujarat) – 389001

Opposite Parties

For the Complainant : Shri Prabhatsinh Parmar

For the Opponents : Shri Rajesh Singh Thakor

ORDER

1. The complainant Shri Jitendra K. Ved moved an application Ex. 1 under Section 33 A of Industrial Disputes Act, in the Reference (CGITA) No. 105/2004 (Old Reference (ITC) No. 79/1998) praying that the Industrial Tribunal may declare the termination of the complainant as above on 25.02.2000 as illegal and in-contravention of Section 33 of the Industrial Disputes Act and has also prayed for reinstatement of the complainant on his original post with back wages and all consequential benefits along with a cost of Rs.10000/- (Rupees Ten Thousand) and any other relief as the Tribunal may deem fit.
2. The complainant has alleged in the complaint that initially he was appointed as a Casual Fitter on 31.07.1980 under the sub-ordination of Electric Chageman, Godhra in the establishment of opposite party Western Railway, Churchgate, Mumbai and others. He had been performing his duty till 20.08.1981 on the aforesaid post. Thereafter, he was given appointment as a Khalasi in Railway Electrification Project in overhead recruitment group no. 42 on 22.08.1981. As he was performing his duties continuously, therefore, he was awarded temporary status on 01.01.1984 and was also awarded all the benefits of permanent workers with an old pay scale of Rs.196-232/-. He performed his duties with full faith and trust from 22.01.1981 to 10.12.1993. He served the opposite party with an unblemished career as he was never served with any charge sheet or warning for any misconduct. He has further alleged as per the rules, he successfully cleared the screening test. Therefore, he was absorbed as a permanent employee. He has further alleged that he was working as a temporary Khalasi at TRD, Western Railway, Dahod in Railway Electrification Project and on 19.07.1987, he was relieved as a case of transfer from the office of the Assistant Trackson Foreman, TRD, Dahod to join at Godhra where he joined on 20.07.1987 as permanent employee. He has further alleged that he was absorbed in the service as a permanent employee, therefore, his services were protected under Articles 14, 16 and 311 (2) of the Constitution of India and also under the provisions of Railway Establishment Act and Industrial Disputes Act. He has further alleged that he was absorbed as a permanent employee as per the provisions of law. Seniority list of the similarly situated employees was also prepared after taking the screening test of all the employees for the post of Khalasi. He was declared successful in the said test vide letter no. G/GL/840/8/9 Volume IV dated 13.09.1993. He was given promotion to

the post of Senior Khalasi and was absorbed at Godhra in the pay scale of Rs.800-1150/-. He has further alleged that during his service, he passed the B.A. and L.L.B. examinations. He has further alleged that considering him as a highly educated person, he was chosen as a Secretary of the General Workmen's Union on honorary basis. He has further alleged that due to his Trade Union Activities and making number of representations regarding industrial matters to the higher authority, the opposite party hatched a conspiracy due to ulterior motive and prejudice, to drive him away from Godhra, therefore, on 10.12.1993, the Divisional Railway Manager, Western Railway, Pratapnagar, Vadodara issued him a transfer order from Godhra to Viramgam. The said order was not served on him but in the garb of the said transfer order, the Divisional Railway Manager struck off his name from seniority list as well as from the muster roll.

3. The complainant has further alleged that he raised an dispute in this regard vide Reference (ITC) No. 79/1998 which is pending for decision. The opposite party without obtaining permission from the Tribunal took a decision on 25.02.2000 to remove the complainant from service on the ground of habitual violation of law by initiating ex-parte enquiry at Viramgam despite the fact that the complainant never joined at Viramgam and he was never served with the transfer order and charge-sheet. It is also noteworthy that he was also not relieved in-absentia.
4. It has further alleged that the complainant was a permanent employee of the railway as Electric Fitter in Electrification Department with a duty to install electric poles and laying electric lines in the Electrification Department, therefore, he falls within the purview of Section 2 (s) of the Industrial Disputes Act and the complaint has been submitted under Section 33 of the Industrial Disputes Act.
5. The complainant has further alleged that on 11.12.1993, he was absent from duty and hence the opposite party was not served the transfer order dated 10.12.1993 and reliving order too. He has alleged that the opposite parties were in knowledge that the transfer order was issued with bad intention and he may obtain stay from the Court, therefore, the officers of the opposite party no. 3 struck off his name from the muster roll.
6. He has further alleged that he had get the stay from the Labour Court, Godhra and he resumed duty on 14.12.1993 but he was not allowed to resume duty and stated that his name was not in the muster roll.
7. He has further alleged that the said Complaint 02/1993 was rejected by the Labour Court, Godhra vide order dated 08.08.1995 for want of jurisdiction. He has further alleged that looking to his duty; he falls under the definition of Section 2 (s) of the Industrial Disputes Act.
8. He has further alleged that in Complaint 02/1993, the opposite party has produced the presence register at Labour Court, Godhra on 28.04.1995 wherein the opposite party has initially marked the absent and thereafter getting the legal advice, absent was turned into "P". He has further alleged that in the time sheet, complainant was shown absent. He has further alleged that the transfer order dated 10.12.1993 was not served to him though his name was struck off from the muster roll w.e.f. 11.12.1993.
9. He has further alleged that with a view to harass the complainant, the opposite party started ex-parte enquiry at Viramgam against the complainant and sent an enquiry report to the complainant which the complainant has received on 19.10.1999. He has further alleged that the enquiry was not conducted in fair manner and hence liable to be quashed and requested the Hon'ble Court to direct the opposite party to produce the original enquiry proceedings. He has alleged that the opposite party has not only committed a breach of acts but also committed breach of principle of natural justice and terminated the services of complainant and hence the present complaint is filed.
10. The main issue in this complaint is that despite pending the Reference (ITC) No. 79/1998 against the transfer order and without serving the transfer order on the complainant and also without relieving in-absentia, he was terminated after hatching a conspiracy to dismiss him by way of ex-parte enquiry at Viramgam while the complainant never joined there.
11. The opposite parties the General Manager, Western Railway, Churchgate, Mumbai, The Divisional Railway Manager, Western Railway, Pratapnagar, Vadodara and The Senior Electrical Foreman (Power), Western Railway, Railway Station Platform, At and PO Godhra, Panchmahal, submitted the joined written statement Ex. 9 along with the application Ex. 8 praying for condonation of delay in submitting the written statement. The opposite party inter-alia denied all the averments made in the complaint contending that the complaint is not maintainable. There is no violation of Section 33 (c) of the Industrial Disputes Act as the order of removal from service does not fall within the purview of Section 33 of the Industrial Disputes Act. It has been further submitted that no dispute was pending for adjudication in the Labour Court or Industrial Tribunal at the time of removal of complainant from service or on the date of moving the present complaint. It has been further submitted that the subject matter of Reference (ITC) No. 79/1998 is entirely different from the present dispute.
12. The complainant submitted the following documents:
 - i. A charge Sheet dated 17.12.1996 *vide* Ex. 2/1.
 - ii. Reply given by the complainant *vide* Ex. 2/2.
 - iii. Additional reply to the reply of Ex. 2/2 *vide* Ex. 2/3.
 - iv. Enquiry report dated 14.10.1999 *vide* Ex. 2/4.
 - v. Defense statement on the enquiry by the complainant dated 30.01.1999 *vide* Ex. 2/5.
 - vi. Forwarding letter of sending enquiry report to the complainant *vide* Ex. 2/6

- vii. Termination order dated 25.02.2000 *vide* Ex. 2/7.
 - viii. Copy of departmental appeal by the complainant *vide* Ex. 2/8.
 - ix. A letter dated 03.12.1999 of the opponent *vide* Ex. 2/9 wherein it has been stated that you are removed from railway services and not vacate the quarters occupied by you and informed you to vacate the quarters.
 - x. The complainant submitted 12 documents *vide* list Ex. 12 along with the said list. The first party admits all the documents; therefore, all are exhibits and may be read in evidence.
 - xi. An application on 20.04.2005 *vide* Ex. 13 wherein the complaint is challenging the findings of the enquiry and further requesting the Court to direct the first party to produce original enquiry proceedings. On the said application, no order has been passed.
 - xii. An application dated 21.06.2005 *vide* Ex. 14.
 - xiii. The certified copies of the oral evidence of the complainant recorded in Reference (CGITA) No. 105/2004 *vide* Ex. 15.
13. The opposite party submitted the Xerox copies of DAR proceedings *vide* Ex. 16 and Ex. 37.
 14. The complainant submitted the written arguments *vide* Ex. 41 and the opposite party submitted the written arguments *vide* Ex. 40.
 15. The complainant submitted his affidavit *vide* Ex. 19 reiterating the averments made in the complaint Ex. 1. In his cross-examination, he has stated that he was initially appointed as Casual Fitter on 31.07.1980 and was made regular in service w.e.f. 20.07.1981. He served at Godhra till 10.12.1993 when he was transferred without any authority or power as provided in the service manual and the said order was not served on him. He was never relieved in-absentia and without serving the charge-sheet, he was removed from service holding ex-parte enquiry in furtherance of a pre-planned conspiracy.
 16. The opposite party examined one Deepak Panchal *vide* affidavit Ex. 34 who reiterated the averments made in the joint written statement Ex. 9 of the opposite parties but in his cross-examination, he has expressed ignorance about any development in the matter. To hit the real point, I would like to reproduce his cross-examination which is as under:

“The complainant was a permanent employee. I don’t know as to whether any seniority list of Khalasi was prepared. I don’t know regarding his place in the seniority list. I don’t know the reasons as to why the complainant was transferred during the pendency of reference. I don’t know as to whether the complainant was transferred as a single case or as mass transfer. I don’t know the complainant personally. I don’t know as to whether the complainant was an active trade unionist. I don’t know as to whether the complainant raised union issues and contested number of cases against the opposite party. Muster roll of Khalasi is kept in the custody of opposite party. On 11.12.1993, the complainant applied for leave, same was refused. I don’t know as to whether there was any demand of Khalasi at Viramgam Station. The complainant was informed of his transfer order by posting at his residence but it was not sent by registered or ordinary post. The complainant never joined at Viramgam but it is true that the enquiry was conducted at Viramgam. It is true that enquiry was conducted in-absentia. Enquiry Officer submitted report on 14.10.1999. I don’t know any details of enquiry; therefore, I cannot say as to how, when and why, enquiry was conducted.”
 17. The opposite party further examined one Lal Bahadur *vide* Ex. 36. In his cross-examination, he has stated that he was appointed as Enquiry Officer in the matter *vide* order no. 3/308/7/3/326 dated 01.06.1998 of AE (Power), Baroda. Charge-sheet was served to the delinquent employee but there is no proof on record that the delinquent employee was served with charge-sheet.
 18. I considered the evidence on record oral as well as documentary and also considered the written arguments of the parties. Looking to the pleading and written arguments of the parties, it transpires that the complainant was removed *vide* order dated 25.02.2000 during the pendency of Reference (ITC) No. 79/1998 and Reference (CGITA) No. 105/2004. It also transpires that during the pendency of the aforesaid reference, the management removed the complainant on the aforesaid date without making compliance of the provisions of Section 33 (1) of the Industrial Disputes Act without obtaining the permission of the Tribunal. Therefore, as per the decision of the Hon’ble Apex Court in case of Jaipur Zilla Sahakari Bhoomi Bank Vikas Ltd. V/s Ram Gopal Sharma and others reported in (2002) 2 SSC 244, wherein the apex court has decided the effect of non-observance of provisions of Section 33 of the Industrial Disputes Act and the Hon’ble Apex Court has held that failure to make an application for approval or permission prior to dismissal or discharge, the order of dismissal or discharge is void and in-operative and employee shall be treated as continue to be in service as if the order of discharge or dismissal was never passed. In the present case admittedly without complying the provision of Section 33, the opposite party has removed the complainant during the pendency of Reference (CGITA) No. 105/2004 (Old Reference (ITC) No. 79/1998). Therefore, complainant is required to be reinstated on his original post with back wages. Further, the order of removal (Ex. 12/1) is passed on the ground that the complainant has not reported for the duty at the transferred place and remained absent at transferred place meaning thereby, the dismissal order is passed for the misconduct of absenteeism. In the article of charges, the list of witnesses were supplied to the complainant but from the proceedings it is transpired that the opposite party has not examined one witness from the list of witnesses and examined more witnesses whose names were not mentioned in the list of witnesses. Not only that but also the complainant was not afforded the opportunity to cross-examine the statements recorded in the

enquiry and the Enquiry Officer has given its finding as the enquiry was done ex-parte without serving charge-sheet and without giving opportunity of hearing. The complainant has not challenged the legality and propriety of the enquiry but challenged the findings and punishments vide Ex. 27. The Enquiry Officer has first given the enquiry report on 14.10.1999. The Enquiry Officer has recorded its finding which is at Ex. 37/22 and on perusal of the said findings, it is transpired that the findings are not based on the evidence and these are non-reasoned findings, therefore, findings are perverse. Even looking to the misconduct of absenteeism, the punishment imposed upon the complainant which is of removal from service, is disproportionate to the alleged misconduct. The punishment of removal for the misconduct of the absenteeism amounts to economical death of a person. Therefore, as per Section 11 A of the Act, the punishment is required to be modified as the punishment is grossly disproportionate to the charge of absenteeism. The complainant relied upon the judgment of Hon'ble Gujarat High Court in case of Sardar Singh V/s District Superintendent of Police, Sabarkantha and others, reported in 1995 GLH 940 wherein a police constable remained absent for 150 days without leave. In that case, the Hon'ble High Court has stated that being absent without leave is certainly misconduct but the penalty of dismissal inflicted on the petitioner is not commensurate to the misconduct. The Hon'ble High Court modified the punishment from termination to withholding two increments with future effect. Therefore, in the present case also, the punishment for absenteeism amounts to economical death and too harsh.

19. In the present case, there is an admission by way of oral evidence of the opposite party as specifically not denied by the opposite party that the complainant was not served with the transfer order and the departmental enquiry was conducted ex-parte without serving the charge-sheet and giving opportunity of hearing. Therefore, the order of removal cannot be said to be legal. Therefore, the removal of the complainant from service is liable to be set aside.
20. Thus the complaint is allowed. As the complainant Jitendra K. Ved has passed the age of superannuation, therefore, the opposite parties are directed to reinstate the complainant Jitendra K. Ved notionally with payment of lump-sum amount of Rs.300000/- (Rupees Three Lac) as compensation. He shall also be granted pension w.e.f. the date of superannuation after giving the service benefits notionally.
21. The order/award is passed accordingly. The opposite parties are directed to execute the order/award within 30 days from the publication of the order/award.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, पश्चिम रेलवे प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 66/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-41011/15/2016-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 13th November, 2018

S.O. 1669.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/2017) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 13.11.2018.

[No. L-41011/15/2016- IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 26th October, 2018

Reference (CGITA) No. 66/2017

1. The Sr. Divisional Electrical Engineer,
Western Railway, Divisional Office, Asarwa, Nr. Chamunda Bridge,
Ahmedabad (Gujarat)
2. The Sr. Divisional Works Manager,
Western Railway, Divisional Office,
Asarwa, Nr. Chamunda Bridge,
Ahmedabad (Gujarat)

...First Parties

V/s

The President,
Akhil Gujarat Karmachari Mahasangh,
28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat) – 382470

...Second Party

For the First Parties : None

For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/15/2016–IR(B-I) dated 21.07.2017 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the President, Akhil Bhartiya Karmachari Mahasangh, Ahmedabad against the Sr. Divisional Electrical Engineer, Western Railway, Ahmedabad to grant ELF Promotion and beneficiary pass to Shri Jitendra L. Khalasi is legal, fair and justified? If so, then what relief the workman Shri Jitendra L. Khalasi is entitled?”

1. The reference dates back to 21.07.2017 and received on 31.07.2017 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. All the parties issued notice Ex. 2 on 03.01.2018 to appear on 08.03.2018. Acknowledgement slips of receipt of notice were also received vide Ex. 3, 4 and 5.

The case was listed for filing of statement of claim but today on 26.10.2018, Shri R.S. Sisodiya, The President, Akhil Gujarat Karmachari Mahasangh, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad stated in the Tribunal that he want to withdraw the reference.

3. Thus the reference is disposed of as withdrawn.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1670.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, बैंक ऑफ बड़ौदा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 851/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-12011/4/2004-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2018

S.O. 1670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 851/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 13.11.2018.

[No. L-12011/4/2004–IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 01st October, 2018**Reference (CGITA) No. 851/2004**

The Assistant General Manager,
Bank of Baroda,
Bulsar Region, Mahalaxmi Apartments,
Post Box No. 86, Tithal Road,
Bulsar (Gujarat) – 396001

...First Party

V/s

The Assistant Secretary,
Gujarat Bank Workers' Union,
Parvana, 2/1, Sumangal Chambers,
Jambubet, Dandia Bazar,
Vadodara (Gujarat) – 390001

...Second Party

For the First Party : Shri Mahesh Thakar
For the Second Party : Kum. Heenaben Desai

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12011/4/2004–IR(B-II) dated 29.04.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Bank of Baroda in terminating the services of Shri Asif Ahmed Shaikh w.e.f. 06.08.2002 is legal and justified? If not, what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 29.04.2004 and received on 27.05.2004 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. The second party submitted the statement of claim Ex. 3 on 13.12.2004 and the first party submitted the written statement Ex. 4 on 24.03.2005.
3. The case was fixed for evidence of the second party but today on 01.10.2018, Kum. Heena Desai, advocate for the second party workman stated that the second party workman Asif Ahmed Shaikh is not in her contact. Thus it appears that the second party workman is not willing to prosecute the case.
4. Thus the reference is disposed of in the absence of the evidence of the second party workman with the observation as under: “the action of the management of Bank of Baroda in terminating the services of Shri Asif Ahmed Shaikh w.e.f. 06.08.2002 is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 97/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-12012/109/2004–आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2018

S.O. 1671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 97/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 13.11.2018.

[No. L-12012/109/2004–IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, LUCKNOW****PRESENT :** RAKESH KUMAR, Presiding Officer**I.D. No. 97/2004****BETWEEN :**

Sri Sandeep Kumar Kar, S/o Sri Akhil Kumar Kar,
R/o 91-B 9 (117) Darbhanga Colony
Allahabad (U.P.)

AND

1. The Regional Manager
Bank of Baroda,
21A/25A, Banerjee Building, L.B. Shastri Marg,
Allahabad-211001

AWARD

1. By order No. L-12012/109/2004-IR(B-II) dated 03.09.2004 Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Sri Sandeep Kumar Kar S/o Sri Akhil Kumar Kar, Allahabad and the Regional Manager, Bank of Baroda, Allahabad for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF BANK OF BARODA IN IMPOSING THE PUNISHMENT OF DISMISSAL FROM BANK SERVICE WITHOUT NOTICE, ON MR. SANDEEP KUMAR KAR W.E.F. 20.08.2003 (VIDE MINISTRY CORRIGENDUM DATED 12.02.2007) IS LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF THE WORKMAN IS ENTITLED TO?”

3. The workman has stated in brief in the claim statement W-3 that he was appointed as Cash Clerk cum-Godown Keeper in Bank of Baroda, Civil Lines, Branch Allahabad on 24.02.1978 on six month promotion and later on was confirmed on 24.08.1978, his work and conduct has always been good and satisfactory, and there was nothing against him, he did not hold any elected office of the bank Staff Association, but had always taken keen interest in law full trade union activities, and it caused some displeasure to different authorities of the Bank, he has always been out spoken activist of the Bank Staff Association, therefore his senior officers got annoyed and they wanted to get some opportunity for his out spoken behaviour. The petitioner has alleged that on 15.12.1988 by manipulation he was transferred from Civil Lines Branch to Bahadurganj branch due to some minor dispute with officers..

4. However, after considering his seniority, merit and suitability, he was promoted and transferred to the Khuldabad branch as Asstt. Head Cashier in Nov. 1992, within 15 days again transferred to Allahapur branch as Category “C” Head Cashier, finally to Kydganj branch as category “E” Head Cashier on 14.08.1996 where the workman remained upto 10.10.1999.

5. The petitioner workman has further stated that the opposite party no.4 lodged an unnamed FIR at belated stage on 14.06.1996 and the applicant was implicated in an alleged fraud case and was suddenly arrested by the Police from his residence on 11.10.1999 Case Crime No.533/99 and was bailed out on 16.10.1999, thereafter he was abruptly suspended vide order dt. 14.10.1999, which was delivered to him on 21.10.1999 at his residence, however before his suspension order no letter seeking his explanation was given to him, neither any charge sheet was served, the Chief Judicial Magistrate, Allahabad took cognizance of the Police Charge sheet vide order dated 19.07.2001 thereafter opposite party no.2 issued highly belated charge sheet after 22 months of his suspension on identical set of allegations, but the workman was not given any opportunity to submit his reply to the allegations. The departmental enquiry was also ordered against him, opposite party no.1 was appointed as Appellate Authority, documents relied upon by the management were never given to the applicant, name of the witness and their submissions were also never given to the applicant. The petitioner has emphasized that the entire allegations in the charge sheet were false, baseless, vague and not tenable in the eyes of law.

6. The so called Saving Bank Account opened on 12.08.91 was not in any way concerned with the duties of the petitioner, account opening card was kept in lock and key and the accountability of the Jt. Manager and the Incharge of the Account S.B opening card was found but the petitioner was wrongly held responsible for it. No charge sheet was ever issued to the other bank official who was incharge of the said account, debit and credit vouchers were in the custody of the Sri Rakesh Nishad, and Daftary was also responsible; the petitioner was posted as Cashier and his duty was entirely different.

7. The petitioner has further stressed that although he has made several representations to the management authorities but those were not duly considered and the mock departmental enquiry was conducted in haste and the management was adamant to dismiss him from service. He has also pleaded that on several occasions he had participated in the departmental enquiry and on only few days he moved adjournment application, but his request for providing relevant documents was not considered and he was also not permitted to peruse the relevant documents, and Sri Nadeem Ahmad Siddiqui was appointed as Defence Witness but he was never relieved and spared of his duty to participate in the enquiry so as to defend the workman. The workman was deprived of his right to get appropriately defended by the representative of his choice. The so called ex parte proceeding by the enquiry officer was never informed to the petitioner. The enquiry was conducted in arbitrary, unjust and malafidely manner, principle of natural justice was not followed and report was submitted against him. The submissions made by the petitioner were not duly considered by the concerned authorities and dismissal order was passed against him. Appeal preferred by him was also dismissed in mechanical manner without applying mind. With the aforesaid pleadings, request has been made to set aside the departmental enquiry and punishment order and to get reinstatement with full back wages alongwith penal interest and consequential benefits etc. Several documents have been annexed with the claim statement.

8. With the denial of the allegation leveled in the claim statement, written statement M-11 has been filed by the management, mentioning therein that the petitioner committed a frud/mis-appropriation amounting to Rs.164479.30/-

from s/b account no. 11553 of Sri N.K. Thakur in the Bank of Baroda, Bahadurganj Branch, Allahabad. A charge sheet was issued, and fair and proper enquiry was conducted and thereafter the petitioner was dismissed. Since the bank being a financial institution depository of the public money, therefore person involved in the fraudulent activities can not remain in the service of the bank. The opposite party has stated that the petitioner was rightly kept under suspension, no proper explanation was given. The conciliation proceeding before the ALC (C) could not succeed and thereafter the matter was referred to this Tribunal.

9. The opposite party has asserted that it was duty of the petitioner to bring the Defence Representative during the enquiry and the management can not be blamed for the said absence of the Defence Representative. Charges leveled in the charge sheet dt. 13.08.2001 were duly proved and the authority rightly imposed the punishment of dismissal from the bank service which was upheld by the Appellate Authority. Principle of natural justice was also followed, and fair and proper enquiry was conducted. Request has been made to adjudicate the matter against the petitioner.

10. With denial of the allegations leveled in the written statement, rejoinder W-13 has been filed by the petitioner workman, reiterating the pleas taken in the claim statement, pronouncements of Hon'ble Supreme Court and certain provisions of the Bipartite Settlements have also been referred in the rejoinder. As per list C-14 certain documents have been filed by the management.

11. In evidence, the workman adduced himself. He was thoroughly cross examined on behalf of the Management. Sri A.K. Gupta, Sr. Manager of the bank was examined by the bank and he was cross examined on behalf of the workman.

12. During pendency of the case an amendment application was moved by the workman which was allowed by the then Hon'ble Judge/PO on 1.02.2005. Following preliminary issue was framed by the then Hon'ble Judge:

1. Whether the OP conducted the domestic enquiry in violation of principle of natural justice as alleged in the statement of claim? If so its effect?.

13. After having heard both the parties in the light of the evidence available on record the preliminary issue was decided by me on 28.04.2015 against the management. The management was accorded the opportunity to prove the charges before this Tribunal and subsequently date was fixed. However, the workman was having full knowledge of the pendency of the case and the date fixed, and even then none appeared on behalf of the workman in the Court. The management filed affidavit of Sri A.K. Gupta, Sr. Manager, Thereafter again several dates were fixed but again none appeared on behalf of the workman to cross examine the management witness. Opportunity to cross examine management witness was closed and the case was fixed for argument. Sufficient opportunity was given, notice through registered post was issued to the workman but again none appeared on behalf of the workman in the Court. Under the compelling circumstances arguments advanced on behalf of the opposite party management were heard at length and record has been scanned thoroughly.

14. The workman has submitted in the claim statement that due to his satisfactory good work he was promoted to the senior post but the management authorities got annoyed with him, since he was associated with the Trade Union activities. False and frivolous charge of mis appropriation of fund was imposed against him with malafide intention, bogus departmental enquiry was conducted, opportunity to defend himself was not provided. Dismissal order was passed which was confirmed by the Appellate Authority without applying any mind. While refuting these allegations learned Authorized Representative of the management has submitted that any dishonest person has got no right to remain in service of the bank and the workman had committed fraud causing misappropriation of more than 1.00 lakhs, since he was unscrupulous and corrupt person, he was dismissed after thorough and comprehensive enquiry. This has also been emphasized that highest standard of honesty and integrity are desirable in the bank employee. The management has requested to adjudicate the matter against the petitioner.

15. Proceeding pending before the enquiry officer, notice, charge sheet etc. and the relevant documents have been filed by the management as per list C-14. Perusal of these documents shows that enquiry was conducted comprehensively and without prejudice.

16. Although the preliminary issue regarding fairness of the enquiry was decided against the management yet the management has proved its case in subsequent affidavit dt. 09.05.2016 filed before this Tribunal. Despite the sufficient opportunity, the workman representative refrained himself from appearing in the Court and the management witness Sri A.K. Gupta was not cross- examined. The uncontroverted evidence of the management witness can not be dis-believed.

In M/s. Uptron Powertronics Employees Union, Ghaziabad through its Secretary vs. Presiding Officer Labour Court (iii), Ghaziabad & others 2008 (118)FLR 1164, Hon'ble High Court relied upon the law settled by the Apex Court in Shanker Chakravarti vs. Britannia Biscuit Co. Ltd. 1979 (69) FLR 70 (SC). V.K. Raj Industries v. Labour Court and others 1979 (39) FLR 70 (SC), Airtech Private Limited v. State of U.P. and others 1984 (49) FLR 38 and (Alld.) Meritech India Ltd. v. State of U.P. and others 1996 (74) FLR 2004; wherein it was observed by the Apex Court;

“that in absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the Court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would, who would fail if no evidence is led.”

17. The statement of the witness having not been controverted would be deemed to be admitted.

18. After having heard the intellect argument elaborated by the Learned Authorized Representative of the management; on perusal of the record in the light of the aforesaid pronouncements of Hon'ble Supreme Court and Hon'ble High Court, it is inferred that the action of the management in imposing punishment of dismissal of the petitioner workman from bank's service w.e.f. 20.08.2003 can not be adjudged as illegal or unjustified. The action taken by the management has been found to be appropriately justified and proper. The petitioner is not entitled to any relief.

19. Award accordingly.

LUCKNOW

15.10.2018

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1672.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2 धनबाद के पंचाट (संदर्भ संख्या 28/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को

13.11.2018 को प्राप्त हुआ था।

[सं. एल-12012/109/2011-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2018

S.O. 1672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 13.11.2018.

[No. L-12012/109/2011- IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO .2), AT DHANBAD

PRESENT : Shri P. K. Mishra , Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947

REFERENCE NO 28 OF 2012

PARTIES : : Mr. Azad Pradeep Kunkal,
C/o Shri R.K Das,
Gitanjali Complex,
Near Bhatia Park, Kadma, Jamshedpur.

Vs.

The Dy. General Manager,
Canara Bank, Circle Office,
Kaushalya Chambers, P.P.Compound.
Ranchi

Order No. L-12012/109/2011- IR (B-II) dt. 26.03.2012

APPEARANCES :

On behalf of the workman/Union : Mr.D.K.Verma, Ld. Advocate
On behalf of the Management : Mr.Ashok Anand Ld. Advocate

State : Jharkhand

Industry : Banking

Dated, Dhanbad, the 09th August 2018

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/109/2011 IR (B-II) dt. 26.03.2012.

SCHEDULE

Whether the action of the Management of Canara Bank in imposing the punishment of compulsory retirement upon Shri Azad Prdeep Kunkal, Ex-Clerk vide Order dated 13.06.2009 is legal and justified? What relief the workman concerned is entitle to?

Neither the Representative on behalf of the O.P./Management was not found present nor did produce much-awaited evidence resting on its part on date. Contrary to it Representative for the workman was found present. Whereas a petition dt. 26.06.2018 moved by the workman concerned duly countersigned by the OP/Management Ld. Counsel, expressing therein his unwillingness to proceed with hearing of the case with prayer to pass a “No Dispute Award” of the Reference, was perused at length. The status of the Industrial Dispute under Reference has been hanging over the stage of evidence of the Management on Preliminary Point since 13.05.2015, with several adjournments took place during hearings resulted in grinding halt of the proceedings. Despite so, no further headway is reported under notice. The case is related to punishment of Compulsory Retirement inflicted upon the workman by the Management of Canara Bank, thereby seeking relief by challenging the alleged action.

A meticulously study of the facts & materials available on the case record, it transpires beyond doubt that workman is, as of now, no longer interested to proceed with hearings of the case to get to final adjudication which itself reflected by his petition dt. 26.06.2018 under his own signature. It also bears the testimony, the workman desires to get his own way, which will pave the way to claims for Pensioner settlement. The real issue indeed, ceases to exist owing to unwillingness on the part of the workman /union. The case has been stagnated over the stage of evidence of the Management since long with no worthwhile explanation forthcoming from either side. Significantly, it is of no use setting the case to be rolling further rather wraps it up for wider prospects and in the line of the principles of the natural of justice. More so, when the workman himself came out himself. Under the circumstances, the Tribunal has been compelled to close down the case due to workman's unwillingness. So the case is closed as “No Industrial Dispute” to meet the principles of the natural justice. Accordingly, an order of ‘No Dispute Award’ is passed.

P. K. MISHRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2018

का.आ. 1673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, कोलकत्ता पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकत्ता के पंचाट (संदर्भ संख्या 31/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-32011/08/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2018

S.O. 1673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of Kolkata Port Trust and their workmen, received by the Central Government on 13.11.2018.

[No. L-32011/08/2013- IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA****Reference No. 31 of 2014**

Parties : Employers in relation to the management of Kolkata Port Trust

AND

Their workmen

Present : Justice Ravindra Nath Mishra, Presiding Officer

Appearance:

On behalf of the Management : Mr. Alok Banerjee, learned counsel with

Mr. Sk. Omer Sherif, learned counsel.

On behalf of the Workmen :

State: West Bengal.

Industry: Port & Dock

Dated: 5th October , 2018

AWARD

By Order No.L-32011/08/2013-IR(B-II) dated 01.04.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Indian Port Association in incorporating the provision for a sub-committee of Bipartite Wage Negotiations Committee which will examine the consolidation of pension/family pension consequent on the revision of pay and allowance w.e.f. 01.01.2012 is justified? What relief the union is entitled?”

2. Brief facts of the case as stated in statement of claim filed by the union are that the present industrial dispute as referred above has arisen over the action of the management of Indian Port Association in incorporating a provision for a sub-committee on bipartite wage negotiation committee on negotiation of consolidation of pension/family pension consequent upon revision of pay allowances with effect from 1st January, 2012. The employees of ports and docks were earlier and all along treated and brought at par with the employees of Central Government under Central Civil Service (Pension) Rules for consolidation of pension to eliminate discrimination between pre-retirees, i.e., 2011-12 and post 01.01.2012 retirees. The Government of India, Ministry of Shipping's instructions issued to bipartite wage negotiation committee includes a clause for revision of pension at every pay revision. A great discrimination and injustice has been done to the pensioners after pay revision with effect from 01.01.2012 without any reason. The management of major ports and 5 major federations of port and dock workers operating in major ports have entered into a settlement on 25.10.2013 after expiry of the period of operation of the settlement dated 19.01.2010 on pay revision of port and dock workers of major ports and dock labour boards over charter of demands of pay structure and allied workers. The parties to the settlement dated 25.10.2013 settled various issues of demands of workmen but nothing was to the retired persons who are drawing pension and pensionary benefits at the fag end of their lives, instead a decision was taken to form a sub-committee in paragraph 40 of the memorandum of settlement dated 25.10.1983 and a decision was taken by the ports and dock labour boards to update their pension regulations etc. The effected workmen, namely, retired employees of ports and docks and dock labour boards being deprived of any benefit of pension, had no other alternative but to agitate their claim for non getting of their pensionary benefits. Accordingly a dispute has arisen and referred to this Tribunal. It is further pleaded that the action of the management of Indian Port Association in incorporating a provision in the settlement for forming a sub-committee of bipartite wage negotiation committee to examine consolidation of pension/family pension consequent upon the revision of pay and allowance with effect from 01.01.2012 cannot be accepted.

3. The management instead of filing written statement has moved an application before this Tribunal stating that Ministry of Shipping, Government of India has passed necessary orders in terms of letter No. LB-11021/1/2014-L dated 8th July, 2015 for consolidation of pension of Group – C and Group – D retirees of major port trusts and dock labour boards with effect from 01.01.2012. Therefore, in view of government order no cause of action survives.

4. Objection was filed by the union against this application moved by the management, but at the time of hearing nobody appeared to press this objection or to oppose the application moved by the management.

5. A copy of the government order No. LB-11021/1/2014-L dated 8th July, 2015 has been filed alongwith above application of the management according to which pension of Group-C and Group-D retirees of major ports and dock labour boards has been consolidated in terms of the order. It is mentioned in the order that pension of retirees prior to 01.01.2007 may be regularized as per formula given in appendix IV of the settlement dated 19.01.2010 by revising the fitment benefit to 30% instead of 23% notionally and effectively from 01.01.2012.

6. As none appeared to oppose the application of the management and argue for the union that the government order issued on 8th July, 2015 does not satisfy the demand of federation, I come to the conclusion that no cause of action survives after issue of above government order.

Award is passed accordingly.

Dated, Kolkata,
The 5th October, 2018

JUSTICE RAVINDRA NATH MISHRA, Presiding Officer

नई दिल्ली, 16 नवम्बर, 2018

का.आ. 1674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, इंडियन ओवरसीज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2 चण्डीगढ़ के पंचाट (संदर्भ संख्या 16/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.11.2018 को प्राप्त हुआ था।

[सं. एल-12012/26/2016-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th November, 2018

S.O. 1674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 16/2016) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 16.11.2018.

[No. L-12012/26/2016- IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2, CHANDIGARH

ID No.16/2016

Smt. Rajwati @ Rajo
W/o Shri Suresh Kumar,
R/o. Village Neemka,
Tehsil Ballabgarh,
District Faridabad .

... Workman/Claimant

Versus

1. The Branch Manager,
Indian Overseas Bank,
Railway Station Road,
Opp.Vivekananda Sr.Sec. School, Palwal.
2. The Branch Manager,
Indian Overseas Bank,
NTPC, Tigon Road, Ballabgarh,
District Faridabad.
3. The Branch Manager,
Indian Overseas Bank,
Regional Office NCR Delhi,
Near Shivaji Bridge,
Connaught Place, New Delhi.

... Managements

AWARD

This Award shall decide a reference which was made to this Tribunal by the Appropriate Government vide letter No. L-12012/26/2016-IR(B-II) dated 10.05.2016 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of Indian Overseas Bank, Tigon Road, Ballabgarh, Faridabad in terminating the services of the workman Smt. Rajwati @ Rajo w/o Shri Suresh Kumar , Safai Karamchhari/Peon with effect from 18/6/2015 is legal and justified ? If not what relief the workman is entitled to and from which date ?’

- (2) Both parties were put to notice and the claimant Smt. Rajwati @ Rajo filed her statement of claim, with the averments that she was appointed as Safai Karamchhari/Peon by Management No.1 in January, 1991 and she remained posted with Management No. 2 from January, 1999 to October, 2007 and thereafter she was again transferred to Management No.1 in November, 2007 where she performed her duties. During her service tenure, she pursued for absorption in the Bank on the basis of circular/guidelines of the Bank and her case had been forwarded/recommended by the Bank to the higher authorities vide its letter dated 5/9/2006, 19/8/2011, 12/9/2014 and 15/5/2011 for regularization of her services. However, services of the claimant were illegallty

terminated by Management No.1 on 18/6/2015 without any notice or payment of compensation. Even no enquiry was conducted despite the fact that she had also completed 240 days of service in a calendar year.

The action of the Management in terminating the services of the workman was to debar her for his rightful dues and amounts to unfair labour practice. It is stated that the workman was getting Rs.5850/- per month at the time of termination and that she is unemployed since the date of her termination. Prayer has been made for reinstatement into service with continuity of service and other consequential benefits.

(3) Perusal of the record shows that the Management caused appearance through its Manager Shri Kanhaiya Lal and Smt. Hem Lata, Manager but did not file any reply/written statement to the statement of claim despite opportunities granted and ultimately, the matter was proceeded ex parte against the Managements vide order dated 14/3/2017.

(3)a In support of her case, the workman appeared in the witness box and tendered her evidence by way of affidavit Ex.AW1/1 and relied on the documents Ex.AW1/1 to Ex.WW1/8.

(4) I have heard Shri Raj Kaushik, A./R for the workman and have gone through the records carefully.

(5) There is no dispute about proposition of law that onus to prove that claimant was in the employment of Management is always on the workman/claimant and it is for the workman to adduce evidence to prove factum of his employment with the Management. Such evidence may be in form of receipt of salary or wages for 240 days or record of his/her appointment or engagement for that year to show that he/she has worked with the employer for 240 days or more in a Calendar year. In this regard, reference may be made to Batala Coop. Sugar Mills Ltd. Vs. Sowaran Singh, (2005) 8 Supreme Court Cases 481 as well as Director Fisheries Terminated Division Vs. Bhikubhai Meghajibhai Gavda (2012) 1 SCC 47.

(6) In her affidavit Ex.WW1/A the claimant has reiterated her case that she was appointed as Safai Karamchari/Peon by Management No.1 in January, 1991 and she remained posted with Management No.2 from January, 1999 to October, 2007 and thereafter she was again transferred to Management No.1 in November, 2007 where she performed her duties. During her service tenure, she pursued for absorption in the Bank on the basis of circular/guidelines of the Bank. She has clarified in her testimony that neither she had applied for the post of Sweeper, nor any appointment letter was given to her but she was working as Sweeper and was getting Rs.1000/- per week. However, it is apparent from the document Ex.W-1 –certificate issued by the Management No.2 herein that she worked as Sweeper at NTPC Branch of the Bank at Faridabad from January, 1999 to July, 2004. Certificates/letters Ex.W-3 and Ex.W-4 were issued by the Branch Manager of Palwal Branch (Management No.1 herein) whereby her case for recruitment to the post of Part Time Sweeper at Palwal was recommended, stating that she had been working for a long time the branches like NTPC, Faridabad and casually at Palwal Branch also since 2007 for cleaning of branch premises and that she has already rendered 13 years of irregular service in various branches of Indian Overseas Bank. In the face of documents Ex.W-1 to Ex.W-4 as discussed above, it stands proved on record that the workman/claimant has been working under the Management Bank since January, 1999 till 14/3/2017 when her services were terminated. Even if it is assumed that the claimant was just working under the Management on part time or on contract basis and was being wages on weekly basis as disclosed by her, in that eventuality also she does fall in the definition of “workman” as provided under Section 2(S) of the Act. . In this regard, reference can be made to the decision in the case of Devinder Singh Vs. Municipal Council, Sanaur, AIR 2011 Supreme Courtt 2532, wherein the Hon’ble Apex Court while interpreting the provisions of Section 2(S) of the Act which deals with the definition of “workman” has observed as under :-

“The source of employment, the quantum of recruitment, the terms & conditions of employment/ contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of the Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman.”

It is clear from the perusal of aforesaid observations that even if a person is engaged on temporary, part time or contract basis or for doing any other kind of work and is duly paid wages for the said work, in that eventuality such a person would be covered by the definition of “workman” as provided in Section 2(S) of the Act.

(7) The version of the claimant that her services were illegally terminated by the Management w.e.f. 18/6/2015 without any notice or compensation pay, has gone unchallenged and unrebutted inasmuch as the Management has neither pleaded nor led any evidence contrary thereto. Since the Management has neither issued any notice, nor has paid any compensation in lieu of notice period to the workman/claimant prior to termination of her services w.e.f. 18/6/2015, this amounts to violation of the provisions of Section 25-F of the Act.

(8) There is long line of decisions of Hon’ble Apex Court as well as of various High Courts that provisions of Section 25-F of the Act are mandatory in nature and termination of the workman from services in derogation of the provisions of Section 25-F of the Act will render action of the Management to be illegal and void under the law.

(9) Since there is no evidence on record that any valid notice was issued by the Management to the workman at the time of termination or in lieu of such notice, any compensation was paid to her, as such action of the Management in terminating the services of the workman is held to be illegal and void.

(10) Now the residual question for consideration is whether the claimant is entitled to any incidental relief of payment of back wages and/or reinstatement of service. It is proved on record that claimant was continuously in the employment of the Management for the last about 16 years or so., prior to her termination w.e.f.18/6/2015. There is no show cause notice or memo issued to the claimant/workman by the Management. Moreover, the job of the workman engaged as Safai Karamchari/Peon is of perennial and regular nature. During the course of arguments, the claimant was present before this Tribunal and she has stated that she is not gainfully employed after her termination. There is pleading in the claim petition as well as evidence in this respect. The Management has not adduced any evidence to show that the claimant is gainfully employed somewhere else or that she is in a position to make her both ends meet by doing any work. Even if it is assumed that the claimant is doing some intermittent or adhoc work to make her both ends meet, that would not itself amount to gainful employment.

(11) The Hon'ble Apex Court in case "Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya" reported as (2013) 10 SCC 324 has held as under :

"The propositions which can be culled out from the aforementioned judgments are :

- i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.
- ii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments."

(12) The Hon'ble Apex Court also held that different expressions are used for describing the consequence of termination of a workman's service/employment/engagement by way of retrenchment without complying with the mandate of Section 25F of the Act. Sometimes it has been termed as ab initio void, sometimes as illegal per se, sometime as nullity and sometimes as non est. Leaving aside the legal semantics, we have no hesitation to hold that termination of service of an employee by way of retrenchment without complying with the requirement of giving one month's notice or pay in lieu thereof and compensation in terms of Section 25F (a) and (b) has the effect of rendering the action of the employer and nullity and the employee is entitled to continue in employment as if his service was not terminated. (Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat (2010) 5 SCC 497).

(13) A Bench of three Judges of the Hon'ble Supreme Court in the case of Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (1979) 2 SCC 80 held that relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the act of employer is found to be totally illegal and arbitrary, in that eventuality the workman is required to be reinstated, with full back wages. Plain common sense also dictates that the removal of an order terminating the services of workmen must ordinarily lead to the reinstatement of the services of the workmen alongwith payment of back wages.

(14) However, Hon'ble Apex Court in the case General Manager, Haryana Roadways Vs. Rudan Singh, reported as 2005 SCC (L&S) 716 observed as under :-

"8. There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e. whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment namely, whether ad hoc, short term, daily wage, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balanced in taking a decision regarding award of back wages. *One of the important factors which has to be taken into consideration is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at this age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e. from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. A regular service of permanent character cannot be compared to short or intermittent daily wage employment though it may be for 240 days in a calendar year.*"

(15) Their Lordships of Hon'ble Supreme Court in (2015) 9 SCC 345, titled as Raj Kumar Dixit Vs. Vijay Kumar Gauri Shanker, on the question of reinstatement of workman after his retrenchment is declared void ab initio have held as under :-

20. The High Court has exceeded in its jurisdiction in setting aside the Award passed by the Labour Court in awarding reinstatement of the Appellate-workman in his post alongwith 50% back wages, which is erroneous in law as the High Court has not noticed the fact that the appropriate Government has referred the dispute to the Labour Court for its adjudication on the points of dispute referred to it. Since, there was non-compliance of the mandatory requirements as provided under the provisions of the Act by the Respondent-firm at the time of passing an order of termination against the Appellant-workman, therefore, the same has been held to be bad in law and as such it should have awarded full back wages to the workman from the date of termination till the date of passing the Award unless the employer proves that the workman was gainfully employed during the aforesaid period which fact is neither pleaded nor proved before the Labour Court.
21. Therefore, the impugned judgement of the High Court is bad in law as the normal rule to be followed by the Respondent-firm with regard to the termination of the services of the workman has not been done in the present case and further, the High Court has once again exceeded in its supervisory jurisdiction in exercise of its judicial review power under Article 227 of the Constitution of India by setting aside the Award of reinstatement with 50% back wages passed by the Labour Court and has instead awarded Rs.2 lakhs as compensation to the Appellate –workman, which is contrary to the law laid down by this Court. The High Court cannot exercise its supervisory jurisdiction and act as either original court or appellate court to set aside the finding of fact recorded on the points of dispute referred to the Labour Court on proper appreciation of pleadings and evidence on record in favour of the workman as has been done in the instant case. The Award of compensation of Rs.2 lakhs awarded in place of reinstatement with 50% back wages as awarded by the Labour Court, has been modified by the High Court without assigning any cogent and valid reason which is not only erroneous in law but suffers from error in law as well, as the same is contrary to the catena of decisions of this Court. On this ground itself, the impugned judgement of the High Court is liable to be set aside and we pass an order to restore the Award passed by the Labour Court.”

(16) Their Lordships of Hon'ble Supreme Court in **(2016) 6 SCC 541, titled as Raj Kumar Vs. Director of Education and others**, have ordered for the reinstatement of the petitioner with full back wages, where retrenchment of the service of the workman was in violation of Section 25(f)(a), (b) & (c) of the Industrial Disputes Act, 1947.

(17) Having regard to the legal position as discussed above and the fact that the claimant was performing duty to a post of regular and perennial nature, this Tribunal is of the firm view that the claimant herein is entitled for reinstatement into service on the same post, with 50 per cent back wages, inasmuch as termination of the claimant/workman is per-se illegal, particularly when the claimant/workman is not gainfully employed anywhere since after her termination by the Management. Award is passed accordingly.

Date : 17.10.2018

AVTAR CHAND DOGRA , Presiding Officer

नई दिल्ली, 16 नवम्बर, 2018

का.आ. 1675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 01/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.11.2018 को प्राप्त हुआ था।

[सं. एल-12011/01/2017-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 16th November, 2018

S.O. 1675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2017) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 16.11.2018.

[No. L-12011/01/2017- IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 2,
CHANDIGARH**

ID No. 01/2017

- 1) Anmol Hanumantha Jadhav,
R/. H.No.398, Maruthi Gali,
Khasbag, Belagavi 590003

2. The President,
PNB Driver Union,
Post Ferozepur Road,
Ludhiana 141012.

...Workmen/Claimant

Versus

1. The Chairman-cum-Managing Director
Punjab National Bank,
7, Bhikaji Cama Place,
New Delhi 1100676.'
2. The General Manager,
5 Ferozepur Road, near Westend Mall,
Rajguru Nagar,
Ludhiana 141012.
3. The Deputy General Manager,
Syndicate Bank,
Regional Bank, Regional Office (Personnel Section),
Maruthi Galli,
Belagavi 590001,
Karnataka

...Management/Respondent

AWARD

This Award shall decide a reference which was made to this Tribunal by the appropriate Government *vide* letter No.L-12011/01/2017-IR(B-II) dated 1.05.2017 and its corrigendum letter dated 24/5/2017, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act) for adjudication of an industrial dispute, terms of which are as under:

‘Whether the following demand made by the PNB Driver Union Punjab, Ludhiana to the management of General Manager, Punjab National Bank, Ludhiana,Punjab are legal, fair and justified ? If yes, what relief the said 42 workmen are entitled to ?’

“Regularization of service of 42 personnel Drivers in the services of Punjab National Bank, Ludhiana will all consequential benefits”.

2. Both parties were put to notice and the claimants/workmen neither filed their statement of claim, nor caused appearance despite issuance of notices by this Tribunal and despite case posted time and again for appearance of the workmen. On the other hand, Smt. Nisha Kumari, Manager –HRD had caused appearance on behalf of the Management. Since none appeared on behalf of the claimants/workmen, this Tribunal *vide* order dated 26/9/2018 was constrained to reserve the matter for passing Award.

3. In view of the fact that the claimants/workmen have neither filed statement of claim nor have caused appearance, this Tribunal has no option but to hold that the claimants/workmen are not interested in progress of the reference and as such, this Tribunal is constrained to pass No Claim/Dispute Award in the matter. Since the matter has not been decided on merits, there will be no bar for the claimants/workmen to file afresh claim petition in accordance with law for adjudication of the controversy in issue or to seek any other relief to which they are otherwise entitled to. Award is passed accordingly.

Dated :18.10.18

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2018

का.आ. 1676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, गुड़गांव ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 चंडीगढ़ के पंचाट (संदर्भ संख्या 19/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.11.2018 को प्राप्त हुआ था।

[सं. एल-12011/16/2016-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 19th November, 2018

S.O. 1676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2017) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Gurgaon Gramin Bank and their workmen, received by the Central Government on 19.11.2018.

[No. L-12011/16/2016– IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

**IN THE COURT OF SH. AVTAR CHAND DOGRA, PRESIDING OFFICER-CUM-LINK OFFICER,
CENTRAL GOVERNMENT**

**INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, GOVERNMENT PRESS EXTENSION BUILDING,
SECTOR 18-A, CHANDIGARH-160018**

ID NO. 19/2017

The President/General Secretary, Gurgaon Gramin Bank workers organization,
H.No.351, Sector 10, Faridabad-121002.

...Workmen

Versus

The Chairman, Sarva Haryana Gramin Bank, H.O-Delhi Road,
Rohtak, Haryana-124001.

...Respondent

AWARD

1. In the present case, a reference was received from the appropriate Government *vide* Letter No.L-12011/16/2016-IR(B-I) dated 09.08.2017 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), for adjudication of a dispute, terms of which are as under:

“Whether the action of the management of Sarva Haryana Gramin Bank, Rohtak in not accepting the demands of the Gurgaon gramin bank worker’s organization in respect of cash allowance to the employees of Gurgaon gramin bank on the parity with Haryana gramin bank employees for the period from 29.11.2013 to 30.09.2014 and special casual leave of 10 days to the president and general secretary of the gurgaon gramin bank worker’s organization are just, fair and legal? If not, what relief the workman is entitled to and from which date?”

2. In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, Claimant opted not to file his claim statement with the Tribunal.

3. On the receipt of the above reference, notice was sent to the workmen as well as to the management. The registered notice was sent on the address mentioned in the letter of reference. There is no other address of workmen available to this Court. Moreover, there is a presumption that a registered letter sent to the addressee i.e. workmen herein has been received by such addressee and rebuttal presumption of service of notice arises in such a case. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement has been filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.

4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no choice, except to pass a ‘No Dispute/Claim Award’. Since there is no adjudication of reference or case on merits as such, it would not preclude the workmen from seeking fresh reference or filing fresh case in accordance with Law.

5. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated: 27.09.201

Place: Chandigarh

A. C. DOGRA, Presiding Officer-cum-Link Officer

नई दिल्ली, 19 नवम्बर, 2018

का.आ. 1677.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, भारत के कंटेनर निगम (कंसोर) लिमिटेड प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 दिल्ली के पंचाट (संदर्भ संख्या 138/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.11.2018 को प्राप्त हुआ था।

[सं. एल-12025/01/2018-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 19th November, 2018

S.O. 1677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 138/2016) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the management of Container Corporation of India (Concor) Ltd. and their workmen, received by the Central Government on 19.11.2018.

[No. L-12025/01/2018- IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1, DWARKA COURTS
COMPLEX : NEW DELHI.**

ID No. 138/2016

Shri Sanjeev Kumar
Senior Assistant (C & O)/Concor,
R/o. D-934 Tigri Colony
New Delhi 110062.

...Workman

Versus

The Chairman cum Management Director,
Container Corporation of India (Concor) Ltd.,
Concor Bhawan,
C-3 Mathura Road,
New Delhi 110076.

...Management

AWARD

This is a claim filed directly by the Workman/claimant Sanjeev Kumar under Section 2(A) of the Industrial Disputes Act (hereinafter referred to as "the Act"), with the averments that the claimant/workman was employed as Senior Assistant (Commercial & Operation) and was posted at Inland Container Depot, Tughlakabad, Okhla, New Delhi, Northern region office of the Management. Service record of the workman was excellent as he was doing his duty even in adverse circumstances with utmost sincerity, honesty and full dedication and the management has acknowledged the same by giving the citations dated 15/2/1999 and 16/6/1999 with cash award for outstanding performance of the workman. On 13/1/99 the workman was deemed suspended for the period from 18/8/1998 to 5/9/98 and was also placed under suspension indefinitely w.e.f. 18/2/99 in view of contemplating the disciplinary proceedings. A chargesheet was issued to the workman vide memorandum dated 25/2/1999 and charges were framed against him in terms of Rule 14(3) of Scheduled of the Industrial Employment (Standing Orders) Central Rules, 1946 regarding unauthorized absence from duty inasmuch as he remained in police custody on 18th and 19th August, 98 and in judicial custody from 28/8/98 to 5/9/98 and was released on bail on 5/9/98. It has been averred that the Enquiry Officer Shri Manish Puri without following principle of natural justice conducted & completed the domestic inquiry and submitted his report dated 30/5/2000. Resultantly, the Management mechanically imposed punishment of "Removal from Service" upon the workman vide order dated 12/7/2000, without appreciating the materials on record and without considering the representation/submissions made by the workman against the Inquiry Report. The workman preferred an administrative appeal against the punishment order before the Departmental Appellate Authority which accepted the submissions of the workman and passed an order dated 13/9/2000, thereby the punishment of "Removal from Service" was kept in abeyance and directions were issued for de-novo inquiry after obtaining the authenticated certified/attested copies of FIR, arrest memo etc. But again the same Inquiry Officer submitted his report dated 23/3/2001 with the same conclusion and same result, against which the workman also filed his representation/submissions before Departmental Appellate Authority, which set aside order (of removal from Service) dated 12/7/2000 and issued directions for de-novo inquiry against charges. Vide order dated 10/12/2001 Shri PS Nerwal was appointed as Enquiry Officer to enquire into

the old charges listed in the memorandum dated 25.2.1999. It is averred that the order dated 10.12.2001 gave another lease of life to the dead chargesheet/ memorandum dated 25/2/99 and issued re-notified chargesheet which was also based without any material to support and without giving workman the opportunity to make submissions. The said inquiry was held at the corporate office of the Management situated in Le Meridian Commercial Tower, Raisina Road, New Delhi vide memorandum dated 31/12/2001. It has further been averred that the Enquiry Officer conducted the enquiry in complete violation of principle of natural justice and in a biased manner and consequently, the workman vide his memorandum dated 14/3/2002 and 25/3/2002 informed the Disciplinary Authority about the behavior and biased attitude of the Enquiry Officer with the request to take action. The workman received memo dated 2/4/2002 from the Inquiry Officer, intimating him the postponement of the inquiry fixed for 5/4/2002 till further advice. Thereafter the workman received an order dated 30/4/2002 of the disciplinary Authority, informing the workman that Shri P.S. Nerwal was re-appointed as Enquiry Officer but his representation dated 14/3/2002 and 25/3/2002 were rejected vide order dated 16/4/2002. During pendency of the inquiry proceedings, suspension of the workman was revoked by the Appellate Authority vide its order dated 13/6/2002 but vide order dated 29/6/2002 the workman was transferred & posted at Jodhpur unit with malafide intention for harassing and victimizing the workman. Being aggrieved from the transfer order dated 29/6/2002, the workman filed Writ Petition Civil No.3990/2002 before the Hon'ble High Court and vide order dated 8/7/2002 Hon'ble High Court directed the Management to find out alternative place of posting of the workman within the radius of 100 km. and fixed the matter for 17/7/2002. The workman gave his acceptance to be posted at Ludhiana unit. The Inquiry Officer conducted the inquiry on 27/5/2002 and 17/7/2002 at the back of the workman without intimating him the dates and in a biased manner and did not offer a single opportunity to the workman to cross examine the witness Shri Jaivir Singh Gill and finally the Enquiry Officer gave his report on 20/11/2002, against which the workman submitted his representation dated 26/5/2003. Thereafter, on the basis of order dated 26/3/2004 of Disciplinary Authority, the Management while imposing punishment of removal from service of the workman, filed application under Section 33(2)(b) of the Act before Industrial Tribunal for approval of its action. The said application was rejected by the Tribunal vide order dated 2/3/2006. Thereafter, the workman moved the Hon'ble High Court vide Writ Petition (Civil) No.5316/2006 for enforcement of his rights to be taken back in service with consequential benefits. The said Writ petition was dismissed by Hon'ble High Court vide its order dated 2-11-2006 with the observation that the workman has an efficacious remedy provided under the Act. Thereafter the workman filed an application under Section 33-A of the Act before the Labour Court cum Industrial Tribunal-II, Delhi which was registered as ID No.11/2008/ The Tribunal was pleased to pass an Award dated 27/7/2001 thereby directed for reinstatement of the workman in service with back wages & consequential benefits. Against the said Award, the Management filed Writ Petition (C) No. 7387/2001 before Hon'ble High Court and the said petition was dismissed vide order dated 10/10/2011 passed by Hon'ble High Court. Against that order, the Management preferred LPA NO. 943/2011 and the Division Bench of Hon'ble High Court passed order dated 21/8/2012, thereby allowing the LPA of the Management & setting aside the order dated 10-10-2011 passed by the Single Judge in W.P.(C) No. 7387/2001 as well as award dated 27/7/2011 passed in ID No. 11/2008 and directed the workman herein to raise the dispute in respect of his termination. Thereafter the workman approached the Conciliation Officer who made efforts for reconciliation between the workman and management but to no success and ultimately, the Conciliation Officer issued certificate dated 25/4/2016, directing the workman to approach the Tribunal. In this background, the present claim petition has been filed by the Workman alleging that action of the Management is illegal; the workman has not been gainfully employed since the management did not allow him to join duties since 26/3/2004 and as such the workman is entitled for reinstatement with continuity of service and full back wages. Prayer has been made and action of the Management imposing punishment of removal from service vide order dated 26/3/2004 to be not justified and/or alternatively, inquiry held by the Enquiry Officer Shri PS Nerwal be declared as wrong, malafide and perverse and further that, the Management be directed to reinstate the workman with continuity of service alongwith full back wages and consequential benefits.

2) The claim petition has been resisted by the Management who filed reply thereto & took preliminary objections that in fact, the claimant/workman was removed from service vide order dated 26/3/2004 and the appeal filed by the workman was dismissed by the Ld. Appellate Authority vide order dated 29/6/2004 but no prayer challenging the order dated 26/3/2004 and/or order dated 29/6/2004 has been made in the claim petition and as such, the claim petition is not covered under Section 2-A of the Act. The claim petition is barred by time and hence liable to be rejected on this score. It is alleged in para (f) of the preliminary objections that this Tribunal has no territorial jurisdiction to entertain the claim petition inasmuch as when the order of removal dated 26/3/2004 was passed, the claimant was admittedly posted and working at Ludhiana (Punjab). The claimant/workman was arrested on 18/8/98 and remained in custody from 18/8/98 to 5/9/98 i.e for more than 48 hours and as such he was required to be under deemed suspension in view of provisions of clause No.36.2 of Standing Orders. The claimant had not informed the office about his arrest and custody etc., rather with a view to conceal his arrest, he had applied for leave only on the ground of "personal". It has been alleged that proper charge sheet was issued to the claimant and proper enquiry has been held. Disciplinary Authority had passed the order of punishment of removal from service, upon the workman after giving him due opportunity to make his submissions. It is also alleged that the claimant has pursued his further studies and completed graduation in law and he is practicing in law. Prayer has been made for rejection of the claim petition.

3. The claimant/workman filed rejoinder wherein he denied all the allegations made by the Management and reiterated his own case as set up in the claim petition

4) Against this factual background, this Tribunal on the pleadings of the parties, framed three issues on 8/11/2016, whereas additional issue No. 2-A was framed vide order dated 9/3/2017. The issues so framed by this Tribunal read as under :

- 1) Whether the Domestic Inquiry held against the workman is not fair and perverse as same is also against regulation and principle of natural justice ?
- 2) Whether the management was not justified in not allowing the workman to join his duty ?
- 2-A) Whether the claim is not legally maintainable, the Court has no jurisdiction and the claim filed by the claimant is time barred as alleged ?
- 3) Whether the workman is entitled for reinstatement with back wages and consequential benefits ?

5) It is notable that issue No. 1 was treated as Preliminary issue and parties were called upon to produce evidence on these issues first The Claimant in support of his case examined himself as W.W.1 and tendered his affidavit Ex.WW1/A alongwith documents Ex.WW1/1 to WW1/59. On the other hand, the Management in support of its case examined Shri Rajeev Bhardwaj, Senior Manager, as MW1 and he tendered his evidence by way of affidavit Ex.MW1/A alongwith documents Ex.MW1/1 to Ex.MW1/8. This witness has also tendered in evidence Enquiry proceedings as well as other documents relating thereto. I would be discussing the same while giving my findings on aforesaid issue No.1.

Issue No.1

6. It was strongly urged by the workman/claimant that he was wrongly charge-sheeted under the Standing Orders, 1997 (Ex.WW1/6), whereas Discipline & Appeal Rules, 1993 (Ex.WW1/5) would be applicable to him being the workman/employee working in the Yard and that he was not governed by the Standing Orders 1997 Ex.WW1/6). The claimant was admittedly employed in the Yard at Tughlagabad and not in the workshop. Attention of this Tribunal was also invited to the counter affidavit (Ex.VWV1/7) filed by the Management as respondent No.2 before Hon'ble High Court of Delhi in W.P(Civil) No. 142/97 titled as Container Corporation of India Employees Union Versus UOI & another, wherein there is reference to the fact that Disciplinary and Appeal Rules are applicable on those employees who are not working in the workshop. Therefore, entire action since issuance of chargesheet (Ex.WW1/9) till passing of the order of removal from service are not valid.

7. It was also urged by the workman/claimant that documents on which reliance was placed by the Management during the course of domestic enquiry were not supplied to him alongwith the chargesheet. Even witnesses were later on introduced in the said enquiry, though their names were not mentioned in the list when chargesheet was served upon him. Attention of this Tribunal was invited to the proceeding of domestic enquiry dated 27/5/2002 (Ex.\A/W1/30) to show that one Shri Jaivir Singh Gill, MHER of P S. Parliament Street, New Delhi whose name does not find mentioned in the List of witnesses relied upon by the Management, was examined by the Enquiry Officer at the back of the workman who being unwell, could not attend the inquiry proceedings on that day and in fact, no opportunity was granted to the workman to cross examine the witness..

8. It has been submitted that no opportunity for leading evidence in defence was afforded to the workman, as provided in para 42.13 of the Standing Orders (Ex.WW1/6). In nut shell, thrust of arguments advanced by the workman is that principle of natural justice was not adopted by the Enquiry Officer and that fair opportunity was not granted during the enquiry proceedings . The workman placed reliance on a number of authorities so as to buttress his submission that fair opportunity is required to be granted to the chargesheeted employee besides supplying him copies of all documents and list of witnesses alongwith chargesheet.

9. I may mention that during the course of arguments, reference was made by both the parties to the earlier litigation between the parties. Perusal of the record shows that against the order dated 26/3/2004 regarding termination of services of the workman, LPA was preferred before Hon'ble High Court which was decided against the workman on 21/8/2012 and against that order, the workman filed SLP before the Hon'ble Supreme Court ; which was decided on 29/4/2013.

10. On the other hand, A/R for the Management strongly urged that the Management adhered to the principle of natural justice and that all relied upon documents were supplied to the workman during the course of domestic enquiry proceedings and hence no prejudice has been caused to the workman. It has been submitted that the witness Jaiveer Singh was just a formal witness who was examined to prove entry in the Roznamcha and First Information Report regarding the case registered against the workman at the Police Station. Ld.A/R for the Management invited attention of this Tribunal to the proceedings dated 2/9/2002 before the Enquiry Officer to show that the workman himself did not lead any evidence despite the fact that he was asked to submit his defence evidence on 24/6/2002. 9/7/2002. 17/7/2002. 31/7/2002 12/8/2002 and 26/8/2002 and hence, the Enquiry Officer closed the enquiry vide order dated 2/9/2002.

11. I have given my thoughtful consideration to the rival contentions of the parties and have gone through the record carefully.

12. Before I proceed to scan and analyse the enquiry report conducted against the workman/claimant herein, it is worthwhile to mention that when a departmental/domestic enquiry is conducted against an official, it can not be treated as a casual exercise and that the Inquiry Officer has to be wholly unbiased and should act as an Independent Adjudicator. Hon'ble Apex Court in the case of State of Uttar Pradesh Vs. Saroj Kumar Sinha, reported as (2010) 2 SCC 772 had held as under

“An inquiry officer acting in a quasi judicial authority is in the position of an independent adjudicator He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, eve in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved .

When a departmental enquiry is conducted against the Govt, servant, it can not be treated as a casual exercise. The enquiry proceedings also can not be conducted with a closed mind. The Inquiry Officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a Govt, servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.”

13. Original Report of Enquiry against the workman alongwith the proceedings has been filed on record as Ex.MW1/3 (colly). Perusal of its running page 52 viz. proceeding of enquiry conducted on 22/1/2002 against the workman, would show that when the workman informed the Enquiry Officer that he had no received copy of the chargesheet and enclosures thereof, the Presenting Officer was directed to provide the workman with the copy of the chargesheet and all relied upon documents and only then and there, the same were supplied to the workman. Record of domestic enquiry shows that two witnesses namely S.K. Tyagi, Terminal Manager, TKD (PW1) and Shri Sanjeev Kumar Jain, Partner of M/s Arihant Industries, Okhla (PW 2) were examined before the Inquiry Officer on 9/5/2002 and 16/5/2002 respectively but the workman/charged official had refused to cross examine the witnesses, though he was afforded opportunity to do so. The conscience of this Tribunal was shaken to see the manner in which these witnesses were examined, inasmuch as all the questions to those witnesses were put by the Inquiry Officer (1.0.) himself and not by the Presenting Officer Shri Rajeev Bhardwaj who was very well present and was supposed to put questions to the witnesses to substantiate the charges framed against the charged official/workman here.

14. It is, thus, apparent from the face of record of enquiry proceedings that the Inquiry Officer did not act as an independent and impartial officer to find out the truth, rather he acted as a representative of the Management.

15. In the aforesaid facts & circumstances of the case and the legal position as explained above, the domestic enquiry conducted against the workman can not be said to be in conformity with the principle of natural justice, fair play and fair hearing. As such the enquiry got conducted by the Management against the workman is held to be illegal and improper. This issue is decided accordingly.

Issue No.2-A

16. Ld. A/R for the Management strenuously contended that this Tribunal has no territorial jurisdiction to entertain the claim petition because when the order of removal dated 26/3/2004 was passed, the claimant was admittedly posted and working at Ludhiana (Punjab). On the other hand, the claimant who argued the matter personally, submitted that this Tribunal has the jurisdiction to try the claim petition because all important events like issuance of charge- sheet, conducting the domestic enquiry ad passing the punishment order all are happened at Delhi.

17. I have carefully gone through the record and I am of the considered opinion that there is no force in the submission of the A/R of the Management, inasmuch as admittedly the affairs and activities of the Management Corporation are run & controlled from the office situated here in Delhi i.e. within the jurisdiction of this Tribunal. Apart from this, the domestic enquiry report Ex.MW1/3 clearly shows that the enquiry proceedings were conducted at Delhi against Shri Sanjeev Kumar, the claimant herein, relating to the misconduct during the period he was posted as Assistant (C&O), Northern Region at Tughlagabad, Delhi. The witnesses before the Inquiry Officer were examined at Delhi. As such, it does not lie in the mouth of the Management to argue that this Tribunal has no territorial jurisdiction to try and decide the claim petition. Accordingly, it is held that this Tribunal has jurisdiction to entertain and decide the claim petition.

18. It has also been argued on behalf of the Management that in fact, the claimant/workman was removed from service vide order dated 26/3/2004 and the appeal filed by the workman was dismissed by the Ld. Appellate Authority vide order dated 29/6/2004 but no prayer challenging the order dated 26/3/2004 and/or order dated 29/6/2004 has been made in the claim petition and as such, the claim petition is not covered under Section 2-A of the Act. The claim petition is barred by time.

19. Per contra, it has been argued by the claimant that the claim petition is well within time because the Special Leave Petition bearing No.7937 of 2013 preferred by him against the order dated 21/8/2012 passed by Division Bench of Hon'ble High Court of Delhi, was dismissed vide order dated 29/4/2013. Thereafter, the claimant had again preferred review application before Hon'ble High Court which too was dismissed vide order dated 27/3/2015.

20. Perusal of the record shows that the claimant was removed from service by the Management vide order dated 29/6/2004 on the basis of order dated 26/3/2004 of the Disciplinary Authority of the Management. The claimant had filed a complaint bearing LCA/ID No.11/2008 under Section 33-A of the Act on the ground that the Management failed to seek approval of the punishment from the Tribunal regarding his removal from service. The said complaint was decided by the Tribunal vide Award dated 27/7/2011 (Ex.WW1/53). whereby the order dated 26/3/2003 of the Disciplinary Authority of CCIL removing the claimant from service was declared to be null and void and Management/CCIL was directed to pay all dues of Shri Sanjeev Kumar deeming him to have continued in service of CCIL Against the said Award, the Management/CCIL approached Hon'ble High Court vide Writ Petition No.7387/2011 but the Single Judge of Hon'ble High Court vide order dated 11/10/2011 (Ex.WW1/54) dismissed the said petition. Then, the Management again moved Hon'ble High Court vide LPA No.943/2011 and the Division Bench of Hon'ble High Court vide order dated 21/8/2012 set aside the judgement of Learned Single Judge and quashed the order dated 27/7/2011 of the Industrial Tribunal which was passed on the application of claimant Sanjeev Kumar under Section 33-A of the Act. Thereafter, Special Leave Petition bearing No.7937 of 2013 was preferred by the claimant which was dismissed vide order dated 29/4/2013. Thereafter, the claimant had again preferred review application before Hon'ble High Court which too was dismissed vide order dated 27/3/2015.

21. It is fairly settled that provisions of Section 2-A of the Act enables a workman to approach Labour Court or

Industrial Tribunal directly, without requirement of reference by Govt, in the cases where any employer discharges, dismisses, retrenches or otherwise terminates the serviced of an individual workman, for adjudication of the dispute after expiry of forty five days from the date he makes an application to the Conciliation Officer of the Appropriate Govt. However, clause (3) of Section 2-A of the Act clearly provides that such an application/claim shall be made to the Labour Court or Tribunal before the expiry of three years from the date of his/her discharge, dismissal, retrenchment or otherwise termination of service.

22. It appears that the claimant adopted a very casual approach for redressal of his grievance, inasmuch as the claim petition under Section 2-A of the Act was filed by him only on 5th July, 2016, though the Management had imposed punishment of his removal from service vide order dated 29/6/2004 on the basis of report dated 26/3/2004 of Disciplinary Authority. Even if it is admitted for the sake of arguments that the claimant had earlier moved a complaint under Section 33-A of the Act before the Tribunal, only in the year 2008, that is to say not before the expiry of three years from the date of his removal from service. As discussed in para 20 above, the Management/CCIL had filed LPA No.943/2011 before Hon'ble High Court against the judgement dated 10/10/2011 of Single Judge. While disposing & summing up of the said LPA, Division Bench of Hon'ble High Court in para 57 of the judgement dated 21/8/2012 had held as under :-

“Though we have earlier observed that the question of justifiability of the disciplinary action was also required to be gone into in Section 33-A proceedings but having now found that there was no dispute requiring any application under Section 33(2)(b), the complaint under Section 33-A itself would be not maintainable. The question thus, of the justifiability of the disciplinary action of removal from service being tested in Section 33A proceedings or the matter being required to be remanded for the said purpose, does not arise. The remedy now of Shri Sanjeev Kumar is only to raise a dispute qua his termination.”

As mentioned above, the Division Bench of Hon'ble High Court had clearly held that the remedy available with Sanjeev Kumar (claimant herein) was only to raise a dispute qua his termination but he did not raise any dispute qua his termination. Rather, he preferred Special Leave Petition bearing No.7937 of 2013 before Hon'ble Supreme Court, against the aforesaid order of the Hon'ble High Court. The SLP was also dismissed vide order dated 29/4/2013. Thereafter, the claimant had again preferred review application before Hon'ble High Court which too was dismissed vide order dated 27/3/2015. Even then the claimant did not take steps at the earliest because he filed the instant claim petition under Section 2-A of the Act only on 5th July, 2016 i.e. after expiry of more than 15 months of the dismissal of his review application by the Hon'ble High Court. All this shows callousness on the part of the claimant/workman.

23. Before concluding I may mention that during the course of arguments, the claimant had heavily relied on the decision of Hon'ble Supreme Court in the case of Sree Narayana Dharmasanghom Trust Versus Swami Prakasanand & others, (1997) 6 SCC 778 to stress that order of Hon'ble Supreme Court dismissing his SLP in limine operates as a final order between the parties and the order passed by the Hon'ble High Court stands merged with the order of the Hon'ble Supreme Court and as such, the period of limitation be calculated from the order so passed by Hon'ble Supreme Court. It is reiterated that the SLP so filed by the claimant herein against the order dated 21/8/2012 of the Hon'ble High Court was dismissed by the Hon'ble Supreme Court vide order dated 29/4/2013. Even in such a situation, the claimant ought to have filed the present petition under Section 2-A of the Act, latest by 29-4-2016 which was not done by him, rather the present petition was filed only on 5/7/2016. It has been held in the case of Smt. Swapana Adhikari Versus State of West Bengal, 2014 LLR 498 (CaL.) that under no circumstances, the Industrial Tribunal/Labour Court can accept and decide such an application under Section 2-A of the Act after expiry of three years. Hon'ble Apex Court in the case titled Ajaib Singh Versus The Sirhind Co-operative Marketing-cum- Processing Service Society Limited and another, AIR 1999 SC 1351 has held that provisions of Limitation Act are not applicable to the proceedings under the Limitation Act. Hon'ble Karnataka High Court in the case of M/s. ITC Infotech India Ltd. Versus Mr Venkataramana Uppada (W.P. No. 27510/2015 -decided on 3/3/2016) held that the provisions of Section 2-A of the Act are mandatory and that on the expiry of three years from the date of discharge, dismissal etc., the right to invoke Section 2-A of the Act would stand extinguished.

24. Having regard to the legal position as explained above as well as the facts & circumstances of the case, this Tribunal is of the considered view that there is inordinate delay in moving the instant claim petition and it is held that the claim so filed by the claimant is patently barred by time and the claim petition is liable to be dismissed on this score alone. This issue is therefore decided accordingly against the claimant.

Issue No. 2 and 3

25. In view of my findings on issue No.1 and 2-A above, these issues have become redundant and no findings are called for.

Relief :-

In the light of the aforesaid, this Tribunal is constrained to hold that the present claim petition being hopelessly barred by limitation is liable to be dismissed. Award is passed accordingly.

Date : 11.09.2018

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2018

का.आ. 1678.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, स्टेट बैंक ऑफ पटियाला प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 चंडीगढ़ के पंचाट (संदर्भ संख्या 12/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.11.2018 को प्राप्त हुआ था।

[सं. एल-12012/10/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 19th November, 2018

S.O. 1678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the industrial dispute between the management of State Bank of Patiala and their workmen, received by the Central Government on 19.11.2018.

[No. L-12012/10/2010- IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No.1, CHANDIGARH : NEW DELHI

ID No. 12/2010

Shri Malkiat Singh,
S/o. Shri Gurbachan Singh,
c/o. Mewa Singh,
Ex-Inspector, Mori Mohalla,
Chamkaur Sahib,
Distt.Ropar.

... Workman/Claimant

Versus

- 1) State Bank of Patiala through its
Chairman/Director,
State Bank of Patiala, Head Office, Patiala.
(now merged with State Bank of India)
- 2) Assistant General Manager-I,
State Bank of Patiala,
Sector 8-C,
Chandigarh.
(now merged with State Bank of India)

.....Management

AWARD

This Award shall decide a reference which was made under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act), by the Appropriate Government vide letter bearing No. L-12012/10/2010-IR(B-I) dated 20/9/2010, with following terms of reference :—

“Whether the action of the management of State Bank of Patiala in awarding the punishment of dismissal from service vide order dated 4/1/2017 of Shri Malkiat Singh Ex-Teller, workman is legal and justified ? If not, what relief the workman is entitled to and from which date? ”

2. Both the parties were put to notice and the claimant/workman filed his statement of claim. Relevant facts of the case as averred in the claim petition are that the workman joined the service of the Management as Guard and was subsequently promoted as Cashier on 1/1/1990. Management issued a false and frivolous charge sheet dated 26/6/2006 while he was working as single window Officer- Head Cashier (officiating) in Kurali Branch, alleging that the workman withdrew a sum of Rs. 2,69,200/- from a number of accounts on various occasions in fraudulent manner and pocketed the money. Further, while working as Teller, workman allegedly made fraudulent withdrawals from the joint SB Account No. 55110156115 (old No. 01170005696 of Mr. Harjinder and Avtar Singh) on 80 occasions, aggregating to Rs.1,87,700/- and pocketed the money. The workman filed reply to the charge sheet. Domestic inquiry was allegedly conducted against him in gross violation of law service rules and in a biased manner. The inquiry report is based on surmises & conjectures. On the basis of inquiry report, a shows cause notice dated 27/12/2006 was issued which shows

that the Disciplinary Authority had already made up its mind & passing of the impugned order dated 4/1/2007 was a mere formality and eye wash. It is alleged that the impugned order of dismissal of the claimant from service is non-speaking and non reasoned order and without application of mind to the facts & circumstances of the case and material available on record. The Disciplinary Authority did not take into consideration unrebutted statement of defence witness/customers, who deposed in the enquiry proceedings. The punishment of dismissal from service of the workman vide impugned order dated 4/1/2007 is highly and grossly harsh & disproportionate to the charges leveled against the workman who had unblemished service record of 24 years and there had been no complaint against the workman in the past during his long career in the bank. The workman had filed an appeal dated 28/2/2007 and had also submitted a representation dated 22/5/2007 but to no avail.

3. Management submitted its written statement, alleging that the claim is not maintainable as the action of the Management in awarding punishment to the workman is legal, just and proper and in accordance with the bipartite settlements. The action has been taken after holding inquiry and giving full opportunities of show cause and personal hearing by the Disciplinary Authority. The allegations of the claimant/workman regarding non application of mind by the Disciplinary Authority have been denied. It is stated that the action of the Disciplinary Authority while passing the dismissal order is speaking one and that too, has been taken after considering all the facts & circumstances of the case in totality. Prayer has been made for dismissal of the claim/reference petition.

4. Perusal of the record shows that my learned Predecessor vide detailed order dated 20/2/2014 has held the departmental inquiry was conducted in a fair and proper manner and that proper opportunity was given to the workman to defend himself and as such inquiry was conducted following the principles of natural justice.

5. Perusal of the record also shows that the workman filed his affidavit wherein he reiterated the averments made in the claim statement, whereas Management relied on the affidavit dated 13/8/2013 of Shri Jagpal Singh, Asstt. General Manager of the Management Bank.

6. I have heard the workman who appeared in person and Shri S.K. Gupta, A/R for the workman and have gone through the records carefully.

7. The workman/claimant submitted that since he has already rendered 24 years' of unblemished service with the Management Bank, the punishment of dismissal from his service awarded vide impugned order dated 4/1/2007 is very very harsh & disproportionate to the charges leveled against him. He placed reliance on the decisions of Hon'ble Supreme Court in the case of Girish Bhushan Goyal Versus. BHEL and another, 2014(3) Recent Services Judgements 364; and of Gujarat High Court in the appellant establishment of Chalpadi Jagannath Kamath Vers. PSV Mallya & others, 2006(3) Recent Services Judgements 494 to urge that since the punishment so awarded to him is exorbitant and disproportionate, lenient view be taken while exercising powers under Section 11-A of the Act.

8. Per contra, learned A/R for the Management argued that action of the Disciplinary Authority while passing the dismissal order is commensurate to the gravity of misconduct proved against the claimant/workman, inasmuch as he was guilty of misappropriating the funds of the customers of the Management Bank. As such, the workman is not entitled to any leniency. Learned A/R for the Management heavily relied on the decisions of Hon'ble Supreme Court in the case of Suresh Pathrella Vs. Oriental Bank of Commerce, 2007 (3) Recent Service Judgements 1 and in the case of Depot Manager, APRSTC Versus Rghuda Siva Sankar Prasad, 2007(1) RSJ 331.

9. There is no dispute that Section 11-A of the Act empowers this Tribunal to interfere with the quantum of punishment in appropriate cases (See. - decisions of Hon'ble Apex Court in the case of Pepsu Road Transport Corporation Versus Rawel Singh, 2008 AIR (SCW) 2099; of Punjab & Hayana High Court in the case/s of Punjab National Bank Vs. The Presiding Officer, CGIT & another 2012 (2) SLR 631; Harnek Singh Versus State of Haryana & others 2010(3) SLR 276 and Joginder Lal Versus The Presiding Officer, Labour Court, Ambala & another 1996 (SCT 436). Section 11-A of the Act empowers this Tribunal to interfere with the quantum of punishment. Reference in this respect may be made to the decisions of Hon'ble Apex Court in the case of Pepsu Road Transport Corporation Versus Rawel Singh, 2008 AIR (SCW) 2099; of Punjab & Hayana High Court in the case/s of Punjab National Bank Vs. The Presiding Officer, CGIT & another 2012 (2) SLR 631; Harnek Singh Versus State of Haryana & others 2010(3) SLR 276 and Joginder Lal Versus. The Presiding Officer, Labour Court, Ambala & another 1996() SCT 436. The discretion is to be exercised judiciously in such cases where order of punishment is quite harsh & disproportionate to the gravity of misconduct of the official concerned.

10. In the instant case, there were serious allegations against the workman that while working as Head Cashier (Officiating) in Kurali Branch, he withdrew a sum of Rs. 2,69,2000/- from number of accounts on various occasions in a fraudulent manner and pocketed the money. Besides that while working as Teller, the workman had made fraudulent withdrawals from the joint SB Account of Mr. Harjinder and Avtar Singh on 80 occasions and pocketed the money aggregating to Rs.1,87,700/-.. It is reiterated that my learned Predecessor vide order dated 20/2/2014 has held that departmental enquiry was conducted in a fair and proper manner, following the principles of natural justice. Admittedly, the Disciplinary authority had issued show cause notice dated 27/12/2006 prior to passing of the impugned order and thus proper opportunity was also afforded to the workman/claimant by the Disciplinary Authority. To my mind, misappropriation of funds of bank's customers or of the Bank's money amounted to breach of trust & it is a kind of misconduct of moral turpitude. It was a clear cut case of loss of confidence in the workman by the Management.

11. With due respect to the authorities cited by the workman/claimant, I may mention that the facts & circumstances of the case law cited by him were distinct from the facts & circumstances of the present case. In the case of Girish Bhushan Goyal (supra), there were allegations of misconduct of negligence against the official/appellant under Rule 5(5)

and 5(9) of the BHEL Conduct Rules and hence dismissal of the appellant from service in that case was considered to be disproportionate to the gravity of misconduct. Similarly, facts in the case of Cholpadi Jagannath Kamath (supra) were that the bank Officer while sanctioning loans in favour of certain parties had exceeded his limits/powers and thus misconducted himself. Since there was nothing on record to show that the Bank suffered losses due to such misconduct on the part of the said charged Officer, Hon'ble Court while setting aside the order of his removal from service, granted him the relief of retirement benefits and other monetary benefits but without any back wages. As such, the rulings cited by the workman are of no help to him.

12. Law is well settled as also emerged from the ruling cited on behalf of the Management as referred to above that the Courts/Tribunal should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. It is not open to the Tribunal and Courts to substitute their subjective opinion in place of the one arrived at by the domestic Tribunal/Disciplinary Authority.

13. Having regard to the rulings as stated above coupled with the fact that the workman has been found to be guilty of grave misconduct of misappropriation of funds of the Management Bank, this Tribunal is of the considered opinion that action of the management Bank in awarding the punishment of dismissal from service vide order dated 4/1/2007 upon the workman is legal and justified and that no interference in the impugned order is called for. Consequently, the workman is not entitled to any relief whatsoever. Award is passed accordingly.

Dated : 17.10.2018

AVTAR CHAND DOGRA , Presiding Officer